

# TERMS AND CONDITIONS OF AGREEMENT FOR THE INDIVISIBLE SUPPLY OF THE SERVICES AND EQUIPMENT FOR BUSINESS CONSUMERS

## 1. INTRODUCTION

- 1.1 This Agreement is for the supply to the Subscriber on an indivisible basis, of the Services and Equipment (where applicable) for the Contract Period.
- 1.2 The Services will be provided to the Subscriber by Cell C SP, and the Equipment (where applicable) will be supplied to the Subscriber by the Equipment Supplier.
- 1.3 All payments, queries, concerns, disputes and communication in respect of the Agreement, including those in relation to the Services and the Equipment shall be made and/or referred by the Subscriber to the Service Suppliers. All communication in respect of the Agreement, including the Services and Equipment, except for communication in terms of clause 7, shall be sent by the Service

## 2. DEFINITIONS

In this Agreement, unless stated otherwise, the following terms shall have the following meanings:

- 2.1 **"Activation"** means the activating of the Subscriber's SIM and/or Cellphone number to access the Cell C Network (or any other network which Cell C uses to provide roaming services) so that the Subscriber can use the Services.
- 2.2 **"the Agreement"** or **"this Agreement"** means the Subscriber's accepted Application including these terms and conditions, as well as any addition or amendment to them. ~~The Tariff Plan~~ and any product-specific terms and conditions, the Cell C Website and Online Services Terms and Conditions (available on Cell C's website at (<http://www.cellc.co.za>)), each as updated from time to time by Cell C or the Equipment Supplier (as applicable) also form part of this Agreement.
- 2.3 **"Application"** means the completed application form and/or renewal application form (where applicable) for Services and Equipment.
- 2.4 **"Cell C"** means Cell C Limited, a public company duly incorporated in the Republic of South Africa with registration number 1999/OO7722/O6, and includes any successor in title, assignee or any other entity entitled to enforce or exercise any of its rights in terms of this Agreement.
- 2.5 **"Cell C Network"** means the electronic communications network in South Africa operated by Cell C.
- 2.6 **"Cell C SP"** means Cell C Service Provider Company Proprietary Limited, a private company duly incorporated in the Republic of South Africa with registration number 2001/OO8017/O7 and includes any successor in title, assignee or any other entity entitled to enforce or exercise any of its rights in terms of this Agreement and includes, for the avoidance of any doubt, Cell C to whom Cell C SP may transfer its rights and obligations hereunder to.
- 2.7 **"Cellphone number"** or **"MSISDN number"** means the unique Mobile Station Integrated Services Digital Network number allocated to the Subscriber in terms of the Agreement.
- 2.8 **"Charges"** means any applicable Connection Fee, Subscription Fee, Usage Charges, SIM fee, Equipment Fee, risk transfer charge and any other charge relating to the provision of Services and Equipment to the Subscriber in terms of the Agreement.
- 2.9 **"Connection Fee"** means the once-off charge for the Subscriber's connection to the Cell C Network.
- 2.10 **"Contract Period"** means the minimum number of uninterrupted months the Subscriber chooses in the Application to use the Services and/or Equipment for the first period or for any Renewal Period. If the Subscriber has chosen a month-to-month Agreement, this Agreement will run on a month-to-month basis until cancelled in terms hereof.
- 2.11 **"Electronic Communications Network Provider"** means any person or organisation licensed in terms of the Electronic Communications Act, 2005, as amended and any replacement legislation to provide electronic communications network services.
- 2.12 **"Electronic Communications Service Provider"** means a person or organisation licensed in terms of the Electronic Communications Act, 2005, as amended and any replacement legislation to provide electronic communications network services.
- 2.13 **"Equipment"** means any tangible object supplied to the Subscriber by the Equipment Supplier in terms of this Agreement, including, but not limited to, equipment that allows the Subscriber to access the Cell C Network, including cellphones, routers, dongles, laptops, wearables, gaming devices, televisions and/or tablets in which a SIM may or may not be installed. For the avoidance of any doubt, Equipment shall include any and all equipment supplied by the Equipment Supplier in terms of this Agreement, not all of which may necessarily require, or allow, access to the Cell C Network.
- 2.14 **"Equipment Fee"** means the then applicable fees charges relating to the Equipment supplied to the Subscriber by the Equipment Supplier in terms of the Agreement.
- 2.15 **"Equipment Supplier"** means Comm Equipment Company Proprietary Limited or any nominee thereof, and any of its subsidiaries, successors in title or assigns.
- 2.16 **"Group"** means, in respect of any Service Supplier, that Service Supplier's group, which includes any controlling shareholder, subsidiaries thereof, their affiliate companies, or any companies to whom that Service Supplier acts as an operator or agent for and may refer to any one of them as the context require;
- 2.17 **"ICASA"** means the Independent Communications Authority of South Africa (or any successor body). This is a public body that regulates the way that Cell C and other Electronic Communications Service Providers and Electronic Communications Network Service Providers carry on business and provide services.
- 2.18 **"Inclusive Benefits"** means any voice minutes/SMSs/MMSs/data/USDD included as part of the Agreement at no additional cost to the Subscriber. These benefits are for local use on local South African networks. These benefits are only for local use on local South African networks and may be subject to special product specific terms and conditions which may be provided to you by a Service Supplier representative.
- 2.19 **"Interest Rate"** means the variable interest rate quoted from time to time by Nedbank Limited as its prime rate, which shall be on a nominal annual compounded monthly rate, as calculated and charged by that bank and as certified by any manager or director of that bank, whose appointment need not be provided and whose certificate shall, in the absence of manifest error, be final and binding on the Subscriber.
- 2.20 **"International Roaming Charges"** means the charges the Subscriber incurs while using the Services and/or the Equipment outside the borders of South Africa. The Equipment will be operating on the electronic communications network of an international roaming partner of Cell C and not the Cell C Network (also called "international roaming"). The Subscriber will be liable for all calls and SMSs (both incoming and outgoing) as well as all data charges incurred, including the foreign network charge and a local roaming charge while international roaming is activated, and all such charges will include the foreign network charge and a local roaming charge. For more information on International Roaming Charges and the applicable charges per foreign network, please visit <http://www.cellc.co.za> or ask in store.
- 2.21 **"Licence"** means any licence issued to Cell C in terms of the Electronic Communications Act, 2005, as amended and any replacement legislation.
- 2.22 **"Monthly Usage Limit"** means the monthly amount defined by the Service Suppliers that the Subscriber can spend on Usage Charges.
- 2.23 **"Out of Bundle Data Charges"** means the rate that the Subscriber will be charged for data upon depletion of your Inclusive Benefits. or any ad hoc data bundle.
- 2.24 **"Port"** or **"Porting"** or **"Mobile Number Portability"** means the ability to transfer the Subscriber's Cellphone number from one Electronic Communications Network Provider or Electronic Communications Service Provider to another so that the Subscriber becomes a subscriber of the other Electronic Communications Network Provider or Electronic Communications Service Provider, but using the same Cellphone number.
- 2.25 **"Price List"** means the price list for the Services or Equipment. The Subscriber may find more information about the Price List on Cell C's website (<http://www.cellc.co.za>) or contact the Service Suppliers for an explanation of what the prices are for Services and/or Equipment, which may change, on notice to the Subscriber, over the period of the Agreement.
- 2.26 **"Renewal Period"** means the period for which the Subscriber has chosen to renew the Agreement.

- 2.27 **"RICA"** means the Regulation of Interception of Communications and Provision of Communication-Related Information Act, 2002, and any replacement legislation.
- 2.28 **"Services"** means the electronic communication services including the SIM that are made available by the Service Suppliers or an international roaming partner of Cell C (if applicable) to the Subscriber through the Cell C Network and/or the electronic communications network of an international roaming partner of Cell C, including any services, products, SIMs and promotions supplied by Service Suppliers or an international roaming partner of Cell C, whether chargeable or non-chargeable. The Subscriber should visit <http://www.cellc.co.za> to find the terms and conditions for the services, products and promotions or contact the Service Suppliers for an explanation.
- 2.29 **"Service Suppliers"** means Cell C SP and the Equipment Supplier (in its capacity as supplier of the Equipment and provider of the Services).
- 2.30 **"SIM"** means a subscriber identity module, which the Subscriber may receive with the Agreement or an eSIM which you may receive in the form of a voucher or other nonphysical identifier for eSIM capable equipment. The SIM is linked to the Subscriber's Cellphone number to allow access to the Cell C Network.
- 2.31 **"SMS"** means short message service generated through the Cell C Network.
- 2.32 **"Split Billing"** means the division of the monthly Charges applicable in terms of the Agreement between the Subscriber and the Subscriber's Employees.
- 2.33 **"Subscriber"** means the customer(s) of Cell C SP and the Equipment Supplier as indicated on the Application.
- 2.34 **"Subscriber's Employees"** means the Subscriber's employees, personnel, agents, contractors or any other person signing up for (or being allocated) Split Billing together with the Subscriber.
- 2.35 **"Subscription Fee"** means the monthly subscription charge for the Subscriber to be connected to the Cell C Network as set out in the Tariff Plan.
- 2.36 **"Tariff Plan"** means a schedule of rates/tariff costs chargeable by the Service Suppliers in respect of monthly Subscription Fees, monthly Inclusive Benefits and Usage Charges (for usage outside of Inclusive Benefits) published by Cell C from time to time; and will be charged separately from and/or in addition to the Equipment Fees and such other charges as contemplated in the Agreement. The Tariff Plans are available on Cell C's website at (<http://www.cellc.co.za>) or at any of Cell C stores.
- 2.37 **"Usage Charges"** means any amount in addition to the Subscription Fee which the Subscriber is liable to pay for using the Services which includes all Out of Bundle Data Charges (if applicable), which include all charges for voice minutes/SMSs/MMSs/data/USSD outside of any Inclusive Benefits.
- 2.38 **"Working Day"** means a day other than a Saturday, a Sunday or a South African public holiday.

In this Agreement, singular words can include the plural, a word of any gender includes the other genders and references to an 'entity' includes any entity that is seen in law as a separate legal person, such as a company, body corporate, a partnership, an association, and a trust.

### 3. COMMENCEMENT

- 3.1 By making Application to use Services and/or Equipment, the Subscriber offers to enter into an agreement with the Service Suppliers for the indivisible supply of Services and with the Equipment Supplier for the supply of Equipment.
- 3.2 This Agreement will commence and be binding on the Subscriber and the Service Suppliers on the earlier to occur of:
- 3.2.1 the acceptance of the Subscriber's Application for the Services and Equipment; and
- 3.2.2 the Activation.
- 3.3 The Renewal Period will begin the day after the previous Contract Period has expired, or otherwise directed by Service Suppliers. The Renewal Period and the Tariff Plan or Charges applicable will only begin if the renewal is accepted by the Service Suppliers.
- 3.4 The Subscriber will be bound by the terms of the Agreement upon signature of the Application by the Subscriber.

### 4. DURATION

This Agreement shall continue until terminated by the Service Suppliers in terms of the provisions of this Agreement or by the Subscriber on not less than 1 (one)

calendar month's written notice of termination to the Service Suppliers, provided that such notice shall not be given before the expiry of 35 (thirty-five) consecutive months, 23 (twenty-three) consecutive months or 11 (eleven) consecutive months, as the case may be (depending on the Contract Period then applicable), from the date of commencement in terms of 3.2.

### 5. PAYMENT AND RESPONSIBILITIES

- 5.1 In return of the provision of Services and Equipment, the Subscriber shall pay:
- 5.1.1 the once-off SIM fee, the Connection Fee, an administration fee, and any other charges as indicated on the Application. If renewing the Agreement, the Subscriber will not have to pay the Connection Fee or SIM fee again, but will need to pay the administration fee then charged by Cell C SP for the processing of the renewed contract;
- 5.1.2 the monthly Equipment Fee (if applicable);
- 5.1.3 the monthly Subscription Fee monthly in advance. If the Agreement starts later than the first day of any month then the first month's Subscription Fee and Inclusive Benefits will be pro-rated;
- 5.1.4 the total Usage Charges generated by the Subscriber for using the Services during each billing period, monthly in arrears;
- 5.1.5 International Roaming Charges (where applicable) and Cell C SP's charge for itemised billing, insurance charges and any other charges payable in respect of the Services requested by the Subscriber or other charges levied by the Service Suppliers from time to time. Inclusive Benefits, ad hoc benefits, bundles and the Monthly Usage Limit do not apply to international roaming and the Subscriber remains liable for all International Roaming Charges. There may be a delay of up to 3 (three) months before the International Roaming Charges are billed to the Subscriber as the Service Suppliers have to wait for the relevant foreign network to provide the necessary information to it;
- 5.1.6 the charges for any additional services used, including any applicable postage related charges; and
- 5.1.7 Value Added Tax or other taxes or duties on the aforesaid charges and the Services contained in the Agreement and/or contained in any Tariff Plan and/or contained in the Price List.
- 5.2 The Service Suppliers may vary all or any of the Charges by publishing an amended Tariff Plan from time to time and such variation shall be effective from the date as stipulated therein.
- 5.3 Any Charges and contents stipulated in the Tariff Plan or in any notice or directive issued by the Service Suppliers from time to time shall be deemed to be incorporated in this Agreement.
- 5.4 All amounts due by the Subscriber to the Service Suppliers shall be paid on or before the due date as set out in the invoice issued to the Subscriber as timeous payment is of the essence of this Agreement. Each payment shall be made free of exchange, deduction or set-off, in cash, direct debit order against a valid current account of the Subscriber or by such other payment method advised by the Service Suppliers (or their nominee) in writing.
- 5.5 If the debit order fails for any reason, the Service Suppliers shall have the right to subsequently use any legal means available to it (including early debit order facilities) to recover any and all amounts owing to the Service Suppliers and the Subscriber agrees that the Service Suppliers shall have the right to change the Subscriber's selected debit order date on notice to the Subscriber.
- 5.6 It is the Subscriber's responsibility to ensure that the Service Suppliers have its correct banking details. The Service Suppliers shall not be liable for any charges, damages or loss if the Subscriber omits to notify Cell C SP that its banking details have changed.
- 5.7 Any amount due by the Subscriber to the Service Suppliers and not paid on the due date thereof, shall (if advised by the Service Suppliers) bear interest at the Interest Rate calculated from the due date until date of actual payment.
- 5.8 The Service Suppliers shall be entitled to levy an administration charge and the Subscriber agrees to pay such a charge in the event that any debit order or cheque payment is returned unpaid, or the Subscriber's debit card is rejected for whatsoever reason.
- 5.9 In the event that the Subscriber fails to pay any amount to the Service Suppliers when such amount is due, the Service Suppliers shall be entitled to inform any credit bureau of the Subscriber's payment default and shall be entitled to blacklist any Equipment in terms of clause 17, without prejudice to any of their other rights in terms of this Agreement.
- 5.10 The Subscriber shall be obliged to pay such deposit as the Service Suppliers may deem fit, in advance of the activation of the SIM, or in the event if the Subscriber defaults on any payment due to the Service Suppliers which deposit may be applied by the Service Suppliers towards payment of any amounts due to the Service Suppliers by the Subscriber.
- 5.11 If the Subscriber does not pay the Service Suppliers on time, if the Subscriber

breaches this Agreement or if the Subscriber does not pay the requested deposit amount, then the Service Suppliers may suspend the Services until the Subscriber has paid the deposit or any outstanding amounts owing to the Service Suppliers.

5.12 Even if the Subscriber does not receive the invoice/s for any month/s, the Subscriber must pay all outstanding charges on the due date. It is the Subscriber's responsibility to ensure that he has given the Service Suppliers the correct address details. The Service Suppliers cannot be held liable for any charges, damages or loss, if the Subscriber does not notify the Service Providers to change the Subscriber's address details.

5.13 The Subscriber agrees that the Service Suppliers will process a debit order payment for the pro-rata Subscription Fee and Equipment Fee in respect of the first month of the Contract Period and for any applicable Connection Charge or once-off SIM fee.

## 6. NON COMPLIANCE WITH AGREEMENT

6.1 If the Subscriber fails to pay any amount due on or before the due date for payment thereof then, subject to clause 6.2, the Service Suppliers may:

6.1.1 oblige the Subscriber to perform all obligations in terms of these Agreements;

6.1.2 charge interest on the overdue amount at the Interest Rate calculated from the due date of payment to the date of actual payment;

6.1.3 take action in terms of clause 6.3;

6.1.4 inform any credit bureau of the Subscriber's payment default;

6.1.5 suspend Services, with or without notice to the Subscriber;

6.1.6 use the deposit amount paid by the Subscriber in terms of clause

6.1.7 5.10 (if applicable) to recover any amounts owing for Services or Equipment;

6.1.8 blacklist the Equipment supplied to the Subscriber in terms of clause 17 of the Agreement; and/or

hand-over the Subscriber's account to external debt collection agencies or attorneys for collection, the costs of which will be for the account of the Subscriber.

6.2 If the Subscriber commits a breach of any of the terms and conditions of the Agreement and remains in breach for a period of 20 (twenty) Working Days after delivery of a written notice of breach to the Subscriber requesting that the Subscriber remedy the breach, the Service Suppliers will be entitled to (without prejudice to any of their rights in terms hereof or at law) immediately:

6.2.1 exercise those rights in 6.1;

6.2.2 cancel the Agreement;

6.2.3 charge the Subscriber for the use of Services up to the date of cancellation;

6.2.4 charge the Subscriber all Charges outstanding for any of Services (including Subscription Fee) which would have continued for the Initial Contract Period or Renewal Period;

6.2.5 charge the Subscriber for the outstanding value of the Equipment supplied to the Subscriber on the date of cancellation of the Agreement, which outstanding value shall be sum of all amounts owing by the Subscriber to the Equipment Supplier at that time, plus amounts which would otherwise have been paid by the Subscriber to the Equipment Supplier in terms of this Agreement but for any such cancellation plus any subsidy in respect of the Equipment granted by the Equipment Supplier;

6.2.6 blacklist the Equipment in terms of clause 17; and/or

6.2.7 claim damages.

**6.3 If the Subscriber cancels the Agreement before the expiry of the Contract Period or the Renewal Period (as applicable), a cancellation fee for early contract cancellation will be applied.** The Subscriber will be liable and undertake to pay on demand:

**6.3.1 the outstanding value of the Equipment on the date of cancellation of the Agreement,** which outstanding value shall be sum of all amounts owing by the Subscriber to the Equipment Supplier at that time, plus amounts which would otherwise have been paid by the Subscriber to the Equipment Supplier in terms of this Agreement but for any such cancellation plus any subsidy in respect of the Equipment granted by the Equipment Supplier;

**6.3.2 the outstanding Charges (including Subscription Fees and Usage Charges) which have been billed but not yet paid** by the Subscriber; and

**6.3.3 a penalty in respect of any of Services which would have continued for the remaining Contract Period of the Agreement which equates to the product of up to 50% of the remainder of the Contract Period and the Subscription Fees.**

6.5 Without prejudice to any other rights at law or set out in this Agreement, the Service Suppliers may terminate this Agreement in the event that:

6.5.1 the Subscriber does or allows to be done any act or omission which adversely affects the operation of the Cell C Network;

6.5.2 the Subscriber commits any act of insolvency in terms of the Insolvency Act No 1936, as amended or becomes subject to any sequestration, liquidation, winding-up, judicial management procedure; business rescue procedure or offers any arrangement or compromise with its creditors;

6.5.3 the Subscriber disposes of all or the greater parts of its assets; or

6.5.4 the Subscriber no longer meets the credit vetting rules and requirements prescribed by the Service Suppliers.

## 7. TERMINATION OR TRANSFER OF AGREEMENT BY SERVICE SUPPLIERS

7.1 The Subscriber agrees and understands that in the following instances, the Agreement may, on written notice to the Subscriber and at the election of the Service Providers, either be terminated, or transferred to another Electronic Communications Network Provider or Electronic Communications Service Provider or to any third party in the case of the Equipment Supplier:

7.1.1 if any of the Service Suppliers undergoes a restructuring which requires the Agreement to be terminated or transferred;

7.1.2 if Cell C's Licence is cancelled, terminated or amended, or if the Cell C Network remains unavailable for a continuous period of 60 (sixty) days;

7.1.3 if Cell C SP or Cell C is insolvent or Cell C SP or Cell C is placed under business rescue in terms of the Companies Act, 71 of 2008, or if Cell C SP or Cell C is unable to provide Services in terms of the Agreement, the Equipment Supplier may elect, on written notice to the Subscriber, to either terminate the Agreement or transfer the right to provide the Services under the Agreement to one or more third parties who are Electronic Communications Network Providers or Electronic Communications Service Providers or any third party in the case of the Equipment Supplier.

7.2 The Subscriber will not be charged a cancellation fee if the Agreement is cancelled for any of the reasons set out in clause 7.1., however, the Subscriber shall remain liable for payment of the Equipment Fee for the Contract Period or Renewal Period (as applicable).

7.3 The Subscriber agrees and understand that if either of the Service Suppliers elect to transfer their rights and obligations under the Agreement to another Electronic Communications Network Provider or Electronic Communications Service Provider or any other third party in the case of the Equipment Supplier then:

7.3.1 the Agreement shall not come to an end, unless the Subscriber requests to cancel the Agreement in terms of the cancellation provisions, and the Subscriber shall remain liable and must continue to pay all amounts in terms of the Agreement, including Charges and Equipment Fee; and

7.3.2 in order to facilitate the uninterrupted transfer, the Subscriber agrees and requests the Service Suppliers, as far as the law allows, to Port the Subscriber's Cellphone number to such other Electronic Communications Network Provider or Electronic Communications Service Provider, unless the Subscriber requests to cancel the Agreement in terms of the cancellation provisions.

## 8. SUSPENSION OF SERVICES AND DISCONNECTION OF EQUIPMENT

8.1 The Services may be suspended by disconnecting the Equipment or SIM from the Cell C Network and/or rendering the Equipment inoperable should:

8.1.1 the Cell C Network fails or becomes temporarily unavailable;

8.1.2 the Subscriber breach any of the terms and conditions of this Agreement including but limited to nonpayment of any amounts due or the use of Equipment not approved by ICASA;

8.1.3 the Subscriber at any time exceeds any credit limit or Monthly Usage Limit imposed by Cell C SP; or

8.1.4 the Subscriber uses the Services or Equipment unlawfully or for any unlawful purpose, or if the Subscriber unlawfully tampers with or modifies the Equipment or SIM.

8.2 The Subscriber will continue to be liable for payment of the Equipment Fee and Subscription Fee during any suspension period.

8.3 The Service Suppliers are entitled to charge the Subscriber a administration fee if Services are suspended and have to be reconnected due to the reasons set out in clauses 8.1.2 to 8.1.4 above.

8.4 The Subscriber shall be entitled to contact Cell C's Emergency Response Centre free of charge in the event of an emergency.

**9. PROVISION OF THE SERVICES**

9.1 Cell C SP will take all reasonable steps within its control to make Services available to the Subscriber at all times in line with the terms and conditions of this Agreement.

9.2 The Services are only available within the range of base stations that make up the Cell C Network and the signal may vary according to where the Subscriber is at the time.

9.3 Although Cell C SP takes all reasonable measures to ensure that Services are offered to the Subscriber on a consistent and continuous basis, the Service Suppliers cannot always guarantee a continuous fault-free service.

9.4 The quality and availability of Services may sometimes be affected by factors such as local physical obstructions; bad weather; other causes of radio interference; the features or functionality of the particular Equipment; damaged Equipment or SIM; unavailability of electrical supply, such as load shedding; or the number of people trying to use the Cell C Network at the same time and availability of Cell C to allow Subscribers to roam on alternative networks.

9.5 The SIM and the Cellphone number allocated to the Subscriber may (if it becomes necessary) be changed by Cell C or the Service Suppliers.

**10. SIM AND EQUIPMENT**

10.1 All risk in and to the Equipment and the SIMs shall pass to the Subscriber on delivery of the Equipment. The Subscriber agrees to notify the Service Suppliers immediately if the Equipment and/or SIM have been lost or stolen.

10.2 Where possible, Cell C SP guarantees that the Subscriber shall have undisturbed possession of the SIM for the duration of the Agreement. Ownership of the SIM will pass to the Subscriber on expiry or termination of this Agreement provided the Subscriber has complied with the Agreement and paid all amounts due in terms of the Agreement. This requirement may be waived in writing by the Service Suppliers.

10.3 Ownership in and to any Subscriber Equipment supplied to the Subscriber shall remain vested in the Equipment Supplier. Ownership of the Equipment will pass to the Subscriber on expiry or termination of this Agreement provided all amounts due in terms of the Agreement have been paid. This requirement may be waived in writing by the Equipment Supplier.

10.4 Any Equipment supplied by the Equipment Supplier which is found to be faulty or defective as a result of design, material or workmanship shall be covered by the manufacturer's warranty for a period to be advised by the Equipment Supplier. Faulty or defective Equipment may be repaired or replaced at the Equipment Supplier's sole discretion, subject to the manufacturer specifications and requirements provided that such Equipment has not been misused, overloaded, modified, tampered with or any repairs have been effected thereto except by a Service Supplier authorised dealer.

10.5 The Service Suppliers do not warrant any Equipment, SIMs or accessory which has been damaged due to water (including dropping Equipment or SIMs in water, damage to Equipment or SIMs due to perspiration and humidity), disassembled, physically altered, permanently installed, affixed, attached, joined or added to, blended or combined with, or embedded within, other Equipment or property.

10.6 The Subscriber agrees that the Subscriber may forfeit and lose any applicable warranty if the Subscriber uses another SIM (other than the SIM issued by the Service Suppliers in terms of this Agreement) in the Equipment.

10.7 The Subscriber acknowledges and agrees that this Agreement is not conditional upon the functionality of the Equipment and therefore the Subscriber shall not be entitled to cancel this Agreement or withhold any payments due under this Agreement due to any defect whatsoever in the Equipment.

10.8 The Agreement will not come to an end in the event that the Equipment and/or SIM is lost, stolen or damaged and the Subscriber will remain liable and must continue to pay all Charges and the Equipment Fee in terms of the Agreement.

**11. INCLUSIVE BENEFITS**

11.1 Where any Tariff Plan provides for Inclusive Benefits and the Subscriber does not use all these Inclusive Benefits within the billing period in which they originally accrued, then those unused Inclusive Benefits may be carried over for a period, to be advised by the Service Suppliers from time to time (the "Carry Over Period").

11.2 Any unused Inclusive Benefits will expire at the end of the Carry-Over Period (where applicable) and the Subscriber will have no claim against the Service Suppliers in respect of such unused Inclusive Benefits.

11.3 On cancellation of this Agreement for any reason, any unused Inclusive Benefits will be forfeited, and the Subscriber will have no claim against the Service Suppliers in respect of such unused Inclusive Benefits. It is the Subscriber's responsibility to ensure that any unused Inclusive Benefits are used up prior to cancellation.

**12. OUT OF BUNDLE DATA CHARGES**

12.1 By signing this Agreement, the Subscriber agrees that once the Inclusive Benefits of its selected product/package are exhausted, the Subscriber will be defaulted to accrue Out of Bundle Data Charges and be liable for such Usage Charges.

12.2 If at any time the Subscriber no longer wish to accrue Out of Bundle Data Charges once its Inclusive Benefits have been exhausted, then the Subscriber may change this by either using the self-service channels available (including relevant websites, applications and interactive voice responses made available by the Service Suppliers for this purpose), or by contacting the Service Suppliers' Customer Care.

**13. DISCOUNTS AND PROMOTIONS**

Unless the Service Suppliers advise otherwise, any Monthly Usage Limit, price reduction, discount, promotion or additional benefit, value added service, or additional services, that is offered and/or provided to the Subscriber as part of this Agreement, will only be applicable during the initial Contract Period and will not apply in the event that: (i) the initial Contract Period has expired and the Agreement is running on a month-to-month basis; or (ii) the Subscriber migrates to another package (other than the package the Subscriber initially activated); or (iii) the Agreement is renewed or cancelled.

**14. LIMITATION OF LIABILITY**

14.1 The Service Suppliers and Cell C will not be liable to the Subscriber for any liability, loss(es) and/or damage and/or cost or expense whatsoever whether direct, indirect and/or of a consequential nature including any loss of income and/or loss of profit and/or loss of anticipated savings suffered by the Subscriber due to:

14.1.1 any reasonable suspension, termination or temporary unavailability of the Cell C Network, or any of Services, or any unavoidable delay in the performance of Services;

14.1.2 any damage or fault to any Equipment;

14.1.3 any change in the Subscriber's Cellphone number if Cell C is obliged to do so in terms of law, or if the Subscriber or the Subscriber's authorised representative requests to change the Subscriber's Cellphone number; or

14.1.4 the Porting of the Cellphone number.

14.2 For the avoidance of doubt, the Service Suppliers and Cell C will not be obliged to reimburse you for any of your losses incurred as a result of any service interruptions and/or unavailability contemplated in clause 14.1.

14.3 It is further recorded and agreed that neither Service Supplier shall be liable to the Subscriber or any third party for any obligations of the other Service Supplier, and their obligations hereunder are several and not joint nor joint and several.

**15. INTELLECTUAL PROPERTY RIGHTS**

Nothing in this Agreement is a licence or transfer to the Subscriber of any of Cell C or the Service Suppliers' rights including copyright and/or trademarks and whether relating to the name Cell C, the Services or the SIM (including any software or firmware incorporated in the SIM) or otherwise.

**16. PERSONAL INFORMATION**

16.1 The Subscriber warrants that all information supplied in the Application is true and correct and undertakes to notify the Service Suppliers immediately in writing should there be any change thereto.

16.2 The Service Suppliers reserve the right to terminate this Agreement immediately and without prejudice to any other rights which the Service Suppliers may have, should any information supplied by the Subscriber be found to be incorrect and/or false.

16.3 In order to fulfil the obligations set out in this Agreement, the Service Suppliers will process the Subscriber's personal information. Such processing may include sharing personal information with:

16.3.1 the Service Suppliers' group, which includes shareholders, subsidiaries and directors, employees and consultants of the Service Suppliers or any of their subsidiaries, their affiliate companies, their service providers, suppliers, agents and partners; companies to whom Service Suppliers acts as an operator or agent for and may refer to any one of them as the context require;

16.3.2 credit grantors and/or credit bureau and/or banks and/or other financial institutions in order to ascertain information relating to the Subscriber's creditworthiness (before the Service Suppliers accept the Agreement) and for fraud prevention purposes, to improve the accuracy of contact details and in order to process any payment transactions necessary for and relative to the Agreement;

16.3.3 African Bank Limited or any other financier of a Service Supplier. It is recorded that pursuant to certain financing arrangements concluded between the Equipment Supplier and African Bank Limited ("**African Bank**") or another financier of the Equipment Supplier ("**Financier**"), from time to time, the Equipment Supplier may cede (whether outright or in security), some or all of its rights, title and interest under this Agreement to African Bank or Financier. In the case where the Equipment Supplier has ceded its rights outright to African Bank or Financier, the Equipment Supplier will collect all amounts due and payable by you on behalf of African Bank or the Financier. In order to permit African Bank or the Financier (as applicable) to exercise its rights under such cession(s), it is necessary for the Equipment Supplier to provide personal information about you (including your full name, identity number, physical address and contact details, including mobile number, and amounts owing and/or paid by you under this Agreement from time to time) to African Bank or the Financier. You agree and consent to the provision of such personal information to African Bank or the Financier, in which case you consent and authorise African Bank or the Financier to use and process your personal information in accordance with their privacy policy accessible by you on African Bank's website (<https://www.africanbank.co.za>) and, in the case of any other Financier, such website as may be notified to you at the time. African Bank or such Financier may also approach you directly to request your consent to offer you specific benefits about their products and services;

16.3.4 attorneys and/or debt collection agencies in order to collect any outstanding payments on the Subscriber's account; and

16.3.5 Service Suppliers' agents and/or consultants and/or trade partners and/or Electronic Communications Service Providers and/or Cell C, but only to the extent necessary and in order to provide Services and Equipment to the Subscriber.

16.4 As and when necessary, the Subscriber consents to the Service Suppliers obtaining, using, storing and/or disclosing the Subscriber's personal information provided to the Service Suppliers as follows:

16.4.1 to consumer research companies for the purposes of conducting research on improving services or products;

16.4.2 for the purposes of the Service Suppliers publishing a directory containing the name, address, details and the applicable Cellphone number of Subscribers; and

16.4.3 for the purposes of Service Suppliers informing or sending information to you about any new services or products offered by the Service Suppliers which is considered to be of interest to you. The Service Suppliers will comply with the direct marketing provisions of the Consumer Protection Act, 68 of 2008 ("**CPA**") as amended and the CPA regulations and the Protection of Personal Information Act, 4 of 2013 ("**POPIA**"), including the provisions relating to the direct marketing registry.

**16.5 The Subscriber is entitled to withdraw its consent for using its personal information under clauses 16.4.1 to 16.4.3 above on written notice or notice in any other recorded form to the Service Suppliers.**

16.6 The Service Suppliers will not disclose the Subscriber's personal information to any other person or institution other than as stated under 16.3, or where compelled to do so in terms of the Licence and/or any law and/or in terms of a court order.

16.7 For further information about:  
16.7.1 how Cell C processes your personal information please refer to its privacy policy here, [https://worldofcellc.co.za/pdf/Privacy\\_Policy.pdf](https://worldofcellc.co.za/pdf/Privacy_Policy.pdf) and

16.7.2 how the Equipment Supplier processes your personal information please refer to its privacy policy here, <https://www.bluelabeltelecoms.co.za/privacy-policy.php>.

**17. BLACKLISTING EQUIPMENT**

17.1 The Subscriber should immediately notify the Service Suppliers in the event that the Subscriber's SIM and/or Equipment are lost or stolen during the duration of the Agreement in order for the Service Suppliers to blacklist the Equipment and/or block the use of the SIM. The Subscriber will remain liable for all charges for the Services, including Subscription Fees and Usage Charges, until the Subscriber has requested the SIM and Equipment to be blacklisted and/or blocked. The Subscriber will continue to be liable for the Equipment Fee and Subscription Fee for the entire Contract Period.

17.2 The Service Suppliers agree to blacklist the use of the SIM and/or Equipment on the Cell C Network and to notify other Electronic Communications Network Providers of such blacklisting, only on the basis that the Subscriber agrees to indemnify Cell C, Cell C SP and the Equipment Supplier in respect of any liability, claim, costs or expenses which may be made against Cell C, Cell C SP or the Equipment Supplier by the Subscriber or by any other person or organisation as a result of such blacklisting.

17.3 If the Subscriber commits a material breach or if there is a material failure by the Subscriber to comply with any of its obligations in terms of this Agreement, then the Service Suppliers are entitled to prevent any further use of any Equipment supplied to the Subscriber.

**18. MOBILE NUMBER PORTABILITY (if applicable)**

18.1 If the Subscriber has Ported the Subscriber's Cellphone number to the Service Suppliers or Cell C, the Subscriber agrees that any services, any third party services and any service credits provided to the Subscriber by other Electronic Communications Network Provider or Electronic Communications Service Provider that the Subscriber has Ported from are not transferable to the Service Suppliers or Cell C and the Subscriber will only have access to the Services as provided for and defined in this Agreement.

18.2 The Subscriber remains liable to pay all outstanding amounts due to the other Electronic Communications Network Provider or Electronic Communications Service Provider. Cell C and the Service Suppliers are not responsible for paying any amounts to the other Electronic Communications Network Provider or Electronic Communications Service Provider.

18.3 The Subscriber remains liable to pay all amounts due to the Service Suppliers in the event that the Subscriber wants to Port the Subscriber's Cellphone number to another Electronic Communications Network Provider or Electronic Communications Service Provider. In the event that the Subscriber Ports its Cellphone number the provisions of the Number Portability Regulations will apply.

**19. RICA**

19.1 RICA is applicable to the Services and the Equipment and to the Subscriber in terms of this Agreement and:

19.1.1 in terms of RICA, is the Service Suppliers are required to be satisfied as to the Subscriber's identity, registration details and registered physical address, which includes getting a copy of the required company documentation and proof of business address;

19.1.2 the Service Suppliers or Cell C will not activate the Subscriber's SIM until all the Subscriber's details as required by RICA have been satisfactorily registered with Cell C SP;

19.1.3 the Service Suppliers or Cell C may be required to disclose the information relating to the Subscriber in accordance with RICA, to a law enforcement officer on receipt of a directive issued in terms of RICA;

19.1.4 the Subscriber must immediately report any loss, theft or destruction of the SIM and/or the Equipment to the police, otherwise the Subscriber will be committing an offence and will be liable to a fine or imprisonment; and

19.2 if the SIM is transferred to another person, then the Subscriber must ensure that the details of that person are registered with Cell C SP as under RICA the Subscriber will be liable to a fine or imprisonment.

**20. MONTHLY LIMIT OPTION**

20.1 The Service Suppliers may, of their own choice and discretion, implement a Monthly Usage Limit, without notice to the Subscriber.

20.2 If the Service Suppliers have applied a Monthly Usage Limit, the Monthly Limit shall:

20.2.1 be calculated in accordance with the Service Suppliers' billing cycle; and

20.2.2 be calculated to include all Usages Charges and SMS charges resulting from the use of the Cell C Network.

20.3 The calculation of all charges will be performed on receipt of call or SMS information, and should the total value of charges reach approximately 70% of the Monthly Usage Limit, Cell C SP shall make reasonable efforts to send the Subscriber an SMS message advising the Subscriber that the Monthly Usage Limit has almost been reached.

20.4 Should the Monthly Usage Limit be reached, the Service Suppliers shall use all reasonable efforts to bar the Subscriber from making further use of the Services, except for any Inclusive Benefits and ad hoc bundles not exhausted, save for calls to emergency numbers, namely 112, and customer care on 135 / and for accessing your voice mailbox on 132 (and any replacement numbers).

20.5 The Subscriber acknowledges and agrees that there may be a delay between usage of the Services and the calculation of the charges in respect thereof, and as such the Monthly Usage Limit option does not guarantee that the Subscriber will not exceed the Monthly Usage Limit and the Subscriber shall

remain liable for all amounts incurred above the Monthly Usage Limit.

20.6 The Monthly Usage Limit cannot be applied when the Subscriber uses the Equipment outside the borders of South Africa (also called "international roaming") as the Service Suppliers may not receive information relating to International Roaming Charges during the period that international roaming is activated in a timely manner. International Roaming Charges, including data charges, can lead to extremely high charges in a short period. The Subscriber should not use data while the Subscriber is roaming outside the borders of South Africa unless the Subscriber is aware of the necessary data charges as the Subscriber will remain liable for all International Roaming Charges.

## 21. GENERAL

21.1 All notices given in terms of this Agreement will be in writing and notices may be sent to the address(es) specified in the Application. Any change in the Subscriber's address will only be effective if and when the Service Suppliers receives written notification of the Subscriber's change of address.

21.2 The Service Suppliers may deliver certain notices to the Subscriber by SMS on its own behalf and on behalf of the Equipment Supplier.

21.3 Notices will be delivered and will be considered as received:

21.3.1 if delivery is by hand, then on the date of delivery;

21.3.2 if delivery is by fax, then within 24 hours of transmission of the fax;

21.3.3 if delivery is by email, then when the message is capable of being retrieved and processed by the addressee from the information system, or server used by the addressee for the purposes of receiving email messages as stated in section 23(b) of the Electronic Communications and Transactions Act, 2002.

21.4 The Subscriber shall not be entitled to cede, delegate, assign or transfer any of its rights or obligations in terms of this Agreement to any third party without the Service Suppliers' written consent, however the Service Suppliers shall be entitled at any time to cede, delegate, assign or transfer any of its rights, obligations or title in terms of this Agreement to any third party without the Subscriber's consent and without notice to the Subscriber, whether such cession, delegation, assignment or transfer is as an out and out cession, delegation, assignment or transfer or as security to any financier or third party.

21.5 No latitude, extension of time or other indulgence which may be given or allowed by the Service Suppliers in respect of the performance of any obligations hereunder shall in any way be construed to be an implied consent or election by the Service Suppliers or operate as a waiver or a novation or otherwise affect any of the Service Suppliers' rights in terms of or arising from this Agreement or stop or preclude the Service Suppliers from enforcing at any time and without notice, strict and punctual compliance with each and every provision or term of the Agreement.

21.6 Except for the Service Suppliers right to change this Agreement described in herein above, this is the whole agreement between you and the Service Suppliers and no amendment, deletion or addition will be valid unless it is stipulated in writing and agreed to by all parties.

21.7 You understand that the provisions of this Agreement which confer benefits on the Group, African Bank and any financiers of the Service Suppliers constitutes a *stipulatio alteri* (i.e. a contract for the benefit of third parties) in favour of the Group, African Bank and/or financier (as applicable), and each of such persons shall, to the extent that they are not a party to this Agreement, be entitled to accept the benefits stipulated on their behalf at any time during the course of this Agreement, on written notice to the Service Suppliers and you.

21.8 To the extent that any splitting of claims arises as a result of the provisions of clause 21.7, you hereby consent to such splitting of claims.

21.9 To the extent allowed by law, if the Service Suppliers elects to take any enforcement action arising from breach of any terms and conditions of this Agreement, the Subscriber shall be liable for all costs thereof and where a Service Provider has to hire the services of an attorney and/or advocate and/or tracing agent then you will be liable in respect of all relevant legal cost(s) and/or expense(s) incurred on the appropriate scale.

21.10 In the event of any one or more of these terms and conditions being unenforceable, same will be deemed to the severable from the remainder of this Agreement, which will nevertheless be binding and enforceable.

21.11 The Service Suppliers are entitled on written notice to the Subscriber (which notice may be sent via SMS) to amend the Agreement if necessary, because of any new and/or amended law, tax, regulation and/or any change in the terms and conditions of Cell C's Licence and/or any change in the Tariff Plan or Services.

The Service Suppliers are further entitled on written notice to the Subscriber (which notice may be sent via SMS), to change the terms and conditions of any of the Services or conditions of supply of the Equipment. The amended terms and conditions of the Agreement, Services and supply of Equipment can be viewed on [www.cellc.co.za](http://www.cellc.co.za).

21.12 Except for the Service Suppliers' right to amend this Agreement, this Agreement constitutes the whole agreement between the parties as to the subject matter hereof and no variation, modification deletion or addition shall be valid unless reduced to writing and published by the Service Suppliers as the case may be.

21.13 The Service Suppliers shall be entitled to recover from the Subscriber all costs of administration and all legal costs, including attorney and own client costs and any collection commissions incurred by the Service Suppliers in or about the enforcement of any of the Subscriber's obligations under this Agreement.

21.14 Where the Subscriber is a company, close corporation, partnership, trust or any other entity with or without legal persona, then the signatory signing on behalf of such Subscriber warrants that he/she is duly authorised to enter into this Agreement on behalf of such Subscriber and has the authority to bind the Subscriber's credit as indicated on the face page hereof. The Subscriber agrees to indemnify the Service Suppliers against any liability, claim, damage or loss that a third party might have arising out of this Agreement if the Subscriber does not have the necessary rights to enter into this Agreement.

21.15 A computerised account or a certificate signed by a manager of any of the Service Suppliers whose authority needs not to be proved, shall be prima facie evidence of any amount due by the Subscriber to the Service Suppliers.

21.16 Any dispute arising from the Agreement shall be referred to the Service Suppliers.

21.17 Any dispute relating to the Agreement can be resolved in accordance with the Service Suppliers' Customer Code of Conduct, a copy of which is available on Cell C's website being [www.cellc.co.za](http://www.cellc.co.za). The Subscriber may also request such a copy from any of the Cell C stores.

21.18 This clause will only apply in the event that Split Billing is applicable to the Subscriber.

## 22. SPLIT BILLING

22.1 This clause will only apply in the event that Split Billing is applicable to the Subscriber.

22.2 The Subscriber, Subscriber's Employees and the Service Suppliers shall agree on the division of the charges applicable in terms of this Agreement.

22.3 The Subscriber's Employees shall be required to enter into a separate Individual Subscriber Agreement with the Service Suppliers. The Subscriber's Employees shall be required to comply with the Service Supplier's credit vetting rules and requirements and shall remain liable to the Service Suppliers, in terms of the Individual Subscriber Agreement.

## 23. ADVANCED AND ADDITIONAL PRODUCTS

23.1 The Subscriber will be required to comply with the terms and conditions applicable to any advanced or additional products selected by the Subscriber.

23.2 The Service Suppliers reserve the right to terminate this Agreement in the event that the Subscriber breaches any term and condition applicable to any advanced or additional products.