

SUBSCRIBER TERMS AND CONDITIONS



1. Definitions

1.1. "WiFi" means Wireless Local Area Network products offered by SkyFi in terms of the WiFi Terms and Conditions found on the link at the end of these Subscriber Standard Terms and Conditions.

1.2. "Agreement" The Subscriber Application Form setting out the Subscriber's details, together with all annexures attached thereto, and these Subscriber Standard Terms and Conditions.

1.3. "Charges" means charges related to the provision of the Services including but not limited to, the connection charges, monthly service charges, usage charges, charges related to the Add Ons provided to the Subscriber in terms of the Agreement, once-off costs for activation of Services, Costs of subsidizing the Hardware, costs of acquiring the Subscriber, administration costs, postage charges Hardware restoration costs, packaging costs and any other charges pertaining to the provision of the Services.

1.4. "Data Carry Over Rules" the policy of rule-s applicable to the usage of data by the subscriber/s, which are available at the following link : <http://www.skyfi.co.za>

1.5. "Downward Package Migration" moving from one subscription level to another with a lesser subscription rand value per month within the same technology.

1.6. "Effective Date" the date of conclusion of the agreement, or the date of delivery of Hardware/Services to the Subscriber that are the subject of this Agreement. Whichever the later.

1.7. "Early Cancellation Charges" means the charges due to SkyFi including but not limited to the balance of the contract, cooling off period cancellation charges to be determined by SkyFi, administrations costs, usage charges, discounts provided, Costs of subsidizing the Hardware, Hardware restoration and packaging costs, monthly Service charges and any other charges pertaining to the provision of the Services.

1.8. "HSPA" High-Speed Packet Access offered by SkyFi in terms of the HSPA Terms and Conditions found on the link at the bottom of these Subscriber Standard Terms and Conditions.

1.9. "Contract Term" A period of the agreement as indicated on the application form, commencing on the Effective Date. "Should this agreement not be renewed as herein provided it shall thereafter continue on a monthly basis for an indefinite period on the same terms and conditions."

1.10. "Installation" The installation of Hardware on a location or Subscriber laptop/desktop or similar device specified by the Subscriber in an order.

1.11. "Internet" The interconnected system of networks that connect computers around the world via the TCP/IP protocol.

1.12. "Licence" The national data telecommunication licence granted to the Network Operator/SkyFi to provide a national data telecommunication service by means of a data network.

1.13. "MDN" The mobile data network established and operated by the Network Operator in terms of the licence.

1.14. "Services" Broadband wireless Internet access services, value-added Internet Protocol ("IP") services, virtual private network ("VPN") services, corporate managed data network services, closed user group and video conferencing services made accessible to the Subscriber by SkyFi in terms of the Agreement.

1.15. "Mobile Access Numbers" The mobile access numbers, IP address, unique user name or subscription numbers used to

identify Subscribers having access to the Services.

1.16. "Order" An order placed by a Subscriber on SkyFi for the provision of the Services.

1.17. "Parties" SkyFi/Network Operator and Subscriber and "Party" refers to either of them as so determined by the context.

1.18. "PPU" Pay-per-use as described and detailed in the Pay Per use terms and conditions found on the link at the bottom of these Subscriber Standard Terms and Conditions.

1.19. "Regulator" The Independent Communications Authority of South Africa/ICASA".

1.20. "Renewal Period" A period indicated by the Subscriber in writing (except via SMS) or another recorded form, commencing on the day immediately following the expiration of the Contract Term, or an anniversary of the expiration period, as the case may be.

1.21. "Skyfi Internet Solutions" (Pty) Ltd, registration number 2014/274610/07 a company registered in terms of the laws of the Republic of South Africa.

1.22. "Service/s" The services chosen by the Subscriber in the Application form including any add-ons which have their specific terms and conditions.

1.23. "Subscriber" Any party to whom the Services are made available in terms of the Agreement.

1.24. "Subscriber Application Form" means either the physical or online application form completed by either a Business or Individual Subscriber and forms part of the Agreement.

1.25. "Subscriber" means either the Corporate or Retail Subscriber to whom the Hardware and Services are provided in terms of this Agreement and whose details appear on the application form, their successors or authorised assignees.

1.26. "Hardware" The type approved SkyFi or other applicable user hardware, including but not limited to the antennas, modems, laptops, web phones and communication cards used by a Subscriber to send and/or receive any data signal via an MDN radio link and may include any other special equipment provided by the Network Operator in order to facilitate any future enhanced services to Subscribers.

1.27. "Upward Package Migration" moving from one subscription level to another with a higher subscription rand value per month within the same technology.

1.28. "Add Ons" Additional Services to the main Service/s offered by SkyFi from time to time.

1.29. "VAT" Value Added Tax as provided in the Value Added Tax act 89 of 1991.

1.30. "VOIP" means Voice over Internet Protocol is a technology for making telephone calls over the MPLS network;

2. Agreement, Effective Date, Term

2.1. The Agreement shall commence on the Effective Date and shall, subject to any other termination provision stated in this Agreement including the Application form and any other addendum thereof, continue for the agreed contract term or should no contract term be specified the default term shall be 24months from the effective date, and thereafter continue on a month to month basis and/or for the specified Renewal Periods unless terminated:

2.2. By the Subscriber, on expiration of the Contract Term or a Renewal Period, as the case may be, by giving to SkyFi a

SUBSCRIBER TERMS AND CONDITIONS



written notice (except via SMS) of termination not less than (1) one calendar month and not more than (3) (three) calendar months before the expiration of the Contract Term or the Renewal Period, as the case may be; and/or By the Subscriber to SkyFi in writing (except via SMS), within a period of 7 (seven) calendar days from the Effective Date.

2.3. The Subscriber acknowledges that Early Cancellation Charges shall apply and that any Hardware returned as a result of the subscriber terminating this Agreement in terms of this clause has to be returned at the Subscriber's expense and in its original condition and packaging and/or by the subscriber for any reason whatsoever prior to the expiry of the Contract Term or Renewal Period, the Subscriber shall be obliged to pay SkyFi any Early Cancellation Charges as well any other applicable Charges whether or not due at the time of cancellation.

2.4. "By SkyFi, after 20 business days notice to the Subscriber to notify the Subscriber to rectify a material failure such as non payment and the Subscriber has failed to do so. Such notice shall not be required for a Subscriber which is a juristic person as defined in the Consumer Protection Act 2008."

2.5. By SkyFi forthwith, in the event that the Licence to provide the Services has been revoked, terminated or amended by the Regulator for any reason whatsoever.

2.6. Notwithstanding the use of agents or other intermediaries (Delegated Service Providers) by SkyFi, the order by the Subscriber is an offer made by the Subscriber to SkyFi and will be considered once received by SkyFi.

2.7. SkyFi's acceptance of the offer shall consist of the signing of the Subscriber Application form by the Subscriber and/or delivery of the Hardware and/or Services to the Subscriber, this shall constitute a valid binding Agreement between SkyFi and the Subscriber.

2.8. The Subscriber may not terminate the Agreement and demand reimbursement for Hardware or any damages of whatsoever nature as a result of the Subscriber's relocation to an area outside of SkyFi's coverage.

2.9. The Subscriber may not terminate the Agreement and demand reimbursement for Hardware or any damages of whatsoever nature as a result of the Subscriber's suspension of Services/Hardware.

2.10. It is the responsibility of the Subscriber to ensure that he/she/it is satisfied with coverage in the area where the Services are provided by SkyFi. Should the Subscriber opt to terminate the Agreement before the expiry date, SkyFi reserves its right to impose an Early Cancellation Charge to the Subscriber.

2.11. Notwithstanding clause 2.1 above, the Subscriber may renew the Agreement to a 12, 24 or 36 month Agreement with not more than 3 (three) calendar months written notice (except via SMS) and not less than 1 calendar month's written notice (except via SMS) to SkyFi prior to the expiry of the Contract Term or Renewal period as the case may be.

2.12. Should the Subscriber opt for early renewal, the Subscriber will be responsible for any outstanding amount owing under the Contract Term prior to commencing with the renewed Agreement.

2.13. Notwithstanding any provision contained in this clause 2 or anywhere in these terms and conditions, SkyFi shall be entitled to terminate the Agreement at any time and provide

a reason for such termination in compliance with applicable legislation.

2.14. The Subscriber acknowledges that, upon termination of the agreement and where there has been unused data, airtime or related service, SkyFi shall not be obliged to in any way, convert such unused data, airtime or related service into credit on the Subscriber's account and or refund same to the Subscriber.

3. Supply and installation of Hardware and Services

3.1. The order placed by the Subscriber to SkyFi is subject to SkyFi's approval.

3.2. SkyFi may in its discretion refer the Subscriber to a third party who may undertake the installation of the Hardware in its own name and behalf and not as an agent of SkyFi.

3.3. The Subscriber shall be responsible for obtaining all necessary approvals and authorities imposed by any competent authority or body (this includes but is not limited to body corporates, provincial and local municipalities) and required for the purpose of any such supply and/delivery and/ installation, the subscriber hereby indemnifies SkyFi against any claim or liability suffered by SkyFi by reason of such approval and authorities not having been obtained.

3.4. All risk in and to the Hardware supplied and delivered by SkyFi to the Subscriber shall pass to the Subscriber on delivery.

3.5. If any Hardware is lost, stolen or damaged, the Subscriber shall immediately notify SkyFi in writing and until such notification, the Subscriber shall remain liable for all charges pertaining to such Hardware. SkyFi shall soon as reasonably possible replace the Hardware. The cost of this replacement equipment shall be for the Subscriber's account. Such loss, theft or damage and/or the replacement of the Hardware and/or the allocation of a new mobile access number for any reason, shall in no way be deemed to constitute a termination of the Agreement which shall continue to be of full force and effect.

4. Charges

4.1. In consideration for the provision of the Services, Hardware and any other services supplied by SkyFi to the Subscriber, the Subscriber shall effect payment to SkyFi of the applicable charges, as detailed in the application form and whether or not the Services have been, or are being utilised by the Subscriber.

4.2. SkyFi may, by written notice to the Subscriber, vary future charges, either in the whole or in part, with effect from the date specified in such notice.

4.3. Unless otherwise agreed to by SkyFi in writing, the Subscriber shall effect payment to SkyFi:

4.4. For the supply, delivery, maintenance and installation of Hardware on presentation of invoice and against such delivery.

4.5. Of monthly service charges monthly in advance and of all other charges, monthly in arrears, in either event in full, within 7 days from date of the relevant invoice.

4.6. At SkyFi's premises or at the bankers of SkyFi in Johannesburg. Where payment is made by the Subscriber through a debit order, other electronic means or any other intermediary, the Subscriber's bankers or other intermediaries shall act as the Subscriber's agent and the Subscriber shall

SUBSCRIBER TERMS AND CONDITIONS



have discharged its obligations only upon payment being received by SkyFi.

4.7. Notwithstanding the provisions of clause 4.3, SkyFi may at any time on reasonable written notice to the Subscriber vary its invoicing and payment procedures and requirements.

4.8. In the event that SkyFi requires payment for the services provided to the Subscriber to be made by debit order, the Subscriber will commit a material breach of the Agreement if the Subscriber: Cancels such debit order without the written consent of SkyFi.

4.9. Changes his banking details on which the debit order relies, without giving SkyFi prior notification of such change and providing SkyFi with the Subscriber's new banking details. Provides the Service provider with incorrect banking details.

4.10. The Subscriber authorises SkyFi to debit any bank account held by the Subscriber for the costs owed by the Subscriber to SkyFi in terms of this agreement.

4.11. The Subscriber acknowledges that payments will be debited from the account or credit card in the name of the Subscriber (or in the name of any third party who has consented thereto) as described in the Subscriber Application form.

4.12. The Subscriber acknowledges that when there are insufficient funds in the account or credit card of a third party to cover the debit, SkyFi reserves its rights to debit the Subscriber's banking account or credit card in respect of any Charges owned by the Subscriber to SkyFi.

4.13. SkyFi shall be entitled to levy an administration Charge of R150.00 including vat and the Subscriber agrees to pay such a Charge in the event that any debit order or other form of payment is returned unpaid from the account or credit card described in the Subscriber application form.

4.14. The monthly invoices shall be sent by SkyFi to the Subscriber to the digital email address supplied by the Subscriber to SkyFi. It shall be the duty of the Subscriber to check the invoice in order to ensure that the contents thereof are correct. Unless a query is raised in respect of the contents of the statement within 7 days from the date thereof, the contents of the invoice shall be deemed to be correct.

4.15. The Subscriber shall not be absolved from paying the full remaining amount of the Subscriber's agreement as a result of incorrect invoices being sent and/or failure of SkyFi to send statements or invoices to the Subscriber.

4.16. In the event of an Upward Package Migration there will be no fee charged. The data carry over rules will apply based on the new package. The data will be equivalent to the new package; the Subscriber will forfeit any data on the old package. The data carry-over rules are available on the following link: <http://www.skyfi.co.za/>

4.17. Any migration from one package option to another shall for the duration of this agreement and be subject to SkyFi's approval in its discretion and SkyFi shall be entitled to levy fees for migrations, but which fees may not exceed the amounts approved or fixed by the responsible regulatory authority from time to time. The Subscriber acknowledges that there will be no data carried over in the event of any type of migration.

4.18. In the event that the Subscriber has an existing separate hardware contract, the Subscriber will still be liable for the balance of the hardware.

4.19. Should a Subscriber want to migrate to any package with a zero-rated hardware, the Subscriber will not be entitled to receive such zero-rated hardware.

4.20. This zero-rated hardware is only available to Subscribers who sign up for new Agreement/s SkyFi reserves the right to levy Charges and Early Cancellation Charges in accordance with the provisions of this Agreement

4.21. SkyFi reserves its right to cap off-net (internet) and on-net (SkyFi to SkyFi) traffic as per its capping limits applicable from time to time. In the event of the Subscriber account being capped, SkyFi reserves the right to charge the Subscriber for every megabyte utilised above the cap limit.

The Subscriber indemnifies and holds SkyFi harmless for any loss suffered as a result of incorrect amounts being debited in respect of applicable changes.

4.22. The Subscriber shall be responsible for the costs of any additional bandwidth or boosters purchased from SkyFi either online or otherwise. The Subscriber acknowledges that there are time delays regarding the updating of the information after purchasing bandwidth/boosters which will be communicated to the Subscriber upon purchase. The additional bandwidth or booster shall be subject to applicable rules and reflected on the Acceptable and Fair Usage Policy as amended from time to time and available on the following link: <http://www.skyfi.co.za/>

4.23. The Subscriber will be responsible for the full usage of voice charges incurred at all times.

4.24. Customer agrees that it shall at all times be responsible for payment of any and all charges incurred by it arising from the use of the voice services provided to it in terms of this Agreement. It being agreed that such usage charges may include without limitation

4.24.1. Charges incurred by the Subscriber (or any other person or entity) regardless of whether or not the use was permitted or even known to the Subscriber

4.24.2. Charges incurred as a result of any sot cap or credit limit imposed being exceeded.

5. Suspension

5.1. Should the Subscriber fail to perform any of the subscriber's obligations, or breaches any terms of the Agreement in which event SkyFi may also suspend the Subscriber's use of the Hardware and/services.

5.2. Should the Subscriber fail to effect payment timeously as per clause 4.5 in which event SkyFi may also suspend the Subscriber's use of the Hardware and/services

5.3. If SkyFi is unable to provide the Services to the Subscriber at SkyFi's discretion for any reason whatsoever.

5.4. The Subscriber allows unmonitored access to the Services to children under the age of 16 years.

5.5. SkyFi reserves the right to require the Subscriber to effect payment of any applicable reconnection charges pursuant to the restoration of the Services suspended in the circumstances contemplated in clause 5.2 In the event that the Subscriber's access to the Network is suspended, the Subscriber shall still be liable for the monthly service charges during any such period of suspension.

6. Limitation of liability

SUBSCRIBER TERMS AND CONDITIONS



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

6.2. SkyFi shall not be liable to the Subscriber in any circumstances whatsoever for any loss, injury or damage of any nature whatsoever or howsoever arising and whether in agreement or in delict, including loss of any other special damages, indirect or consequential loss or damages which the Subscriber or any other person may sustain, whether as a result of any breach of this agreement by SkyFi or whether caused directly or indirectly by the Hardware or the use thereof, and the Subscriber hereby indemnifies SkyFi and holds it harmless against any claim by the subscriber or any other person The subscriber hereby indemnifies SkyFi against any claims arising out of: force major or Acts of God (e.g., fire, flood, inclement weather, epidemic, or earthquake); war or act of terrorism, including chemical or biological warfare, labour disputes, lockout, strike, embargo; governmental acts, orders, or restrictions; failure of suppliers or third persons; or where the claim is a result of an action that is beyond SkyFi's reasonable control.

6.3. SkyFi shall not be liable for any fraudulent activities that may occur due to access by third parties into the Subscriber's account/connection/premises/voice platform.

6.4. The Customer shall remain liable for the voice account in the event of such fraudulent activity taking place in the Subscriber's account.

6.5. SkyFi reserves its right to scan the Subscriber's voice platform/hardware for any external vulnerabilities/risks.

6.6. Should SkyFi detect a vulnerability/risk, SkyFi will advise the Subscriber accordingly and require the Subscriber to eliminate or mitigate the vulnerability/risk at the Subscriber's expense before providing the Service/s.

7. Breach

7.1. If the Subscriber commits a breach of any of the terms and conditions hereof and remains in default for a period of 20 (twenty) business days after delivery to the Subscriber of a written notice ("notice of breach") from SkyFi calling for such breach to be remedied "(which notice shall not be required if the Subscriber is a juristic person as defined in the Consumer Protection Act 2008), SkyFi shall be entitled forthwith and without further notice to the Subscriber to either terminate the Agreement or claim specific performance of all the Subscriber's obligations, including the immediate payment of all sums of money payable by the Subscriber, whether or not then due, in either event without prejudice to SkyFi's right to claim such damages as it may have suffered by reason of such

breach or failure.

7.2. Without prejudice to the provisions of clause 7.1 above, SkyFi may forthwith terminate the Agreement at any time by giving Subscriber written notice of such termination if (i) the Subscriber fails to make payment of any charges on or before the due date for payment thereof; and/or (ii) the Subscriber within a 12-month period calculated from a notice of breach, receives a further two notices of breach; or (iii) in the event that the Subscriber is sequestrated, liquidated or placed under business rescue, irrespective of whether any of the aforesaid are provisional or final; or voluntary or compulsory.

7.3. Any termination pursuant to the preceding provisions of this clause shall be without prejudice to any claim SkyFi may have against the Subscriber in respect of any prior breach of the terms and conditions of the Agreement by the Subscriber.

7.4. Without derogating from any other rights or remedies available to SkyFi in terms of the Agreement or at law, in the event of the Agreement being canceled by the Subscriber (for whatsoever reason) prior to the expiry of the Contract Term or any Renewal Period, or in the event of SkyFi electing to terminate the Agreement pursuant to any breach by the Subscriber which entitles SkyFi to cancel:

7.5. The Subscriber shall be liable to SkyFi and hereby agrees to pay on demand, the full charges payable to SkyFi for the remainder of the Contract Term or Renewal Period, as the case may be. The charges shall include Legal Costs as between attorney and own client, Collection Charges, Early Cancellation Charges, Cancellation Charges as well any other applicable Charges whether or not due at the time of cancellation.

8. Insurance

8.1. SkyFi acts as a collection agent for insurance brokers and/or underwriters in respect of the optional insurance of the Hardware and related risks as referred to the schedule or application form. SkyFi shall not be liable to the Subscriber under any policy issued or claim declined pursuant to the Subscriber's election to take insurance as provided in the schedule.

8.2. Unless the Subscriber specifically elects to take insurance for the Hardware and related risks or in accordance with the procedures introduced by SkyFi from time to time, the Subscriber shall not be covered in respect of the Hardware and related risks.

8.3. If at any stage before or after the Subscriber elects to take insurance, the Subscriber requests from SkyFi a summary of the terms and conditions of the applicable insurance policy, SkyFi shall use its best endeavours to furnish same to the Subscriber as requested. It shall be the responsibility of the Subscriber to obtain and familiarise himself with the terms and conditions of the insurance policy applicable.

8.4. It shall be the responsibility of the Subscriber to insure the Hardware with any other insurance provider and to ensure that the premiums in respect of the insurance policy are paid timeously and in full. If the insurance is provided through SkyFi and for any reason, SkyFi omits to include insurance charges in a statement to the Subscriber; the Subscriber shall forthwith notify SkyFi of such omission. SkyFi may rectify the omission by debiting the Subscriber's account with any amounts in arrears, subject to any terms and conditions which may be applicable

SUBSCRIBER TERMS AND CONDITIONS



under the relevant policy.

8.5. Save as provided herein, any queries which the Subscriber may have regarding or arising from the insurance of the Hardware and related risks, shall be directed to the insurance administrators or brokers, as the case may be whose particulars may be obtained by the Subscriber from SkyFi.

9. General

9.1. In the event of the Subscriber failing to effect payment of any amount owing by them to SkyFi on due date, then without derogating from SkyFi rights in terms of clause 7, the Subscriber shall be liable to effect payment of interest to SkyFi on the amount so owing at the prime interest rate as published from time to time by ABSA Bank Limited plus 2% (percent), from due date to date of payment.

9.2. Unless specifically stated otherwise, all prices and charges set out in the Agreement and any price list are inclusive of Value-Added Tax and exclusive any other applicable tax or duty, the liability of which shall vest with the Subscriber.

9.3. The rights and obligations of the Subscriber in terms of the Agreement may not be ceded or delegated to any third party. The rights and obligations of SkyFi in terms of the Agreement may be ceded and delegated by it to any other party on written notice to the Subscriber.

9.4. SkyFi may change the terms and conditions of this agreement as a result of changes in taxes, laws, regulations, the terms and conditions of the Licence issued to SkyFi. SkyFi shall notify the Subscriber of any changes as contemplated herein in writing.

9.5. A certificate under the hand of any Manager of SkyFi whose capacity and authority need not be proved certifying the sum of any amount owing by the Subscriber to SkyFi shall be prima facie proof of its contents and sufficient proof for the purposes of enabling SkyFi to obtain any judgment or order against the Subscriber.

9.6. In addition to these terms and conditions the Subscriber shall be bound by the terms and conditions applicable to the Add Ons offered by SkyFi. The Subscriber may be required to subscribe to SkyFi Add Ons which forms part of a mandatory subscription. The Subscriber shall, however, have a right to request to be exempted from such a subscription, which exemption shall be provided at the sole discretion of SkyFi.

9.7. In the event of SkyFi instituting legal proceedings against the Subscriber to recover amounts due to SkyFi or take any other legal steps arising out of the Agreement, the Subscriber shall be liable for legal costs on the scale as between attorney and own client consults its attorneys relating to a breach of the Agreement by the Subscriber or” before “instituting whether or not legal steps have been instituted.”

9.8. Should the Subscriber be placed under administration, sequestration or liquidation proceedings, business rescue or suffer any other legal disability which will negatively affect the Subscriber’s ability to make payment to the Service provider, the Subscriber is required to notify SkyFi, in writing (except via SMS) within 7 (seven) days of occurrence of the aforementioned events.

9.9. The Subscriber may not allow children to access the internet services unmonitored and that they do not access websites that have illegal content, including but not limited to

pornographic content and/or gambling.

9.10. The Subscriber hereby acknowledges that voice rates to special numbers, international numbers, as well as premium rated numbers, change on a daily basis and are made available at <http://www.skyfi.co.za>

9.11. Calls made to premium rate numbers, either local or international are done at the customer’s risk and the customer remains fully responsible for the payment tariffs thereof.

10. Consent/Authority

10.1. The Subscriber hereby consents/authorizes SkyFi to disclose the Subscriber’s name, address and personal details to any party whenever it is reasonably necessary for SkyFi to properly perform its functions or protect its interests, or for the purpose Of enabling the Network Operator or SkyFi to provide emergency Services to the Subscriber, or directory or repair services and information to Network users generally. In addition, the Subscriber consents to SkyFi using any information supplied by the Subscriber of the purposes of informing Subscribers of SkyFi and/or SkyFi affiliates or partners’ services which may interest the Subscriber from time to time.

10.2. The Subscriber hereby consents/authorises SkyFi at any time, without notice to the Subscriber to obtain information about the Subscriber’s profile from any authorised and registered credit reference agency in the Republic of South Africa. The Subscriber consents/authorises SkyFi to provide regular reports in respect of Subscriber’s payment conduct to any authorised and registered credit reference agency in the Republic of South Africa.

10.3. The Subscriber consents/authorises receiving marketing, promotional updates and client satisfaction surveys from SkyFi.

11. Sale of Hardware and conditions applicable:

11.1. The sale of Hardware by SkyFi to the Subscriber at a subsidised price as set out in the Schedule and application form shall be subject to the following terms and conditions: All risk in and to the Hardware supplied and delivered by SkyFi to the Subscriber shall pass to the Subscriber on delivery.

11.2. Ownership in the leased Hardware will remain vested in SkyFi The Subscriber shall have the option of purchasing the hardware at the expiry of the agreement provided that the Subscriber notifies SkyFi of its intention to purchase same not later than 10 business days before the expiry of the Agreement.”

11.3. SkyFi obligations in terms of any warranties pertaining to the Hardware shall be limited to the one (1) year from the Effective date. Furthermore, the warranties are subject to the manufacturers prescribed warranties. All delivery costs shall be for the Subscriber’s account. Warranties exclude negligence, misuse, abuse, Power surges and incorrect installations.

11.4. Should the Subscriber, upon purchase of the Hardware discover any fault or defect in the Hardware, the Subscriber shall within 3 days of purchase return the Hardware to SkyFi in the same condition and packaging as the Hardware was purchased along with the proof of purchase. SkyFi shall replace the damaged of faulty Hardware. In the event of the Subscriber not returning the Hardware packaging to SkyFi, SkyFi may charge the Subscriber a packaging fee.

SUBSCRIBER TERMS AND CONDITIONS



11.5. The SkyFi reserves its right to limit the number of Hardware that may be linked to a Subscriber account. The Subscriber may only log onto the network once from each account and may not establish multiple log-on sessions simultaneously from the same account. SkyFi reserves its right to charge an additional subscription amount to allow multiple simultaneous log-ons to the network from the same account.

11.6. If the Subscriber migrates from one package option to another, SkyFi may vary the amount of the subsidy applied at the time of the sale of the Hardware to the Subscriber. If the subsidy amount is reduced, SkyFi shall be entitled to require the Subscriber to pay to SkyFi the amount by which the subsidy has been reduced. It being understood that this charge does not constitute a migration fee, but enables SkyFi to adjust the subsidy amount to the amount that would have been applicable at the time of sale of the Hardware if the Subscriber had first chosen the package option to which the Subscriber is changing.

11.7. Should the Subscriber return the Hardware for any reason whatsoever, the Subscriber shall furnish SkyFi with the original tax invoice provided on purchase of the Hardware.

12. Miscellaneous Matters

Postal address:

12.1. The parties hereby choose the following addresses as their respective chosen domicilium citandi et executandi for delivery of all notices and court processes.

12.2. SkyFi at Block D, Meyersdal Eco Office Park, Meyersdal, Alberton (Marked for the attention of the Legal Department)

12.3. The Subscriber at the physical address stated in the application form.

12.4. Notices shall be sent either by prepaid registered post or delivered by hand or by e-mail to the addressee at the chosen address.

12.5. If sent by prepaid registered post the notice shall be deemed to have been received by the addressee within 5 business days after posting. If delivered by hand or e-mail the notice shall be deemed to have been received on the date of transmission or delivery against which a written receipt must be obtained.

12.6. Should the Subscriber become aware of the notice otherwise than as herein stipulated the notice shall be deemed to have been duly delivered on the addressee becoming so aware.

12.7. No notice may be given by facsimile or sms.

12.8. Each party may change its given address upon giving written notice thereof to the other at least 10 business days prior to the change being effected.

12.9. At all times the chosen address must be within the Republic of South Africa and not a poste restant.

13.No Representations: Neither party may rely on any representation which allegedly induced that party to enter into the Agreement, unless the representation is recorded in the Agreement.

14.Amendment And Waiver: On written notice given to the subscriber SkyFi reserves its right to amend these terms and conditions from time to time. No failure, delay, relaxation, or indulgence on the part of SkyFi in exercising any power or right conferred upon it in terms of this agreement shall operate as a

waiver of such power or right, nor shall any such failure, delay, relaxation or indulgence be deemed to be a novation waiver or substitution of any of the terms and conditions of this agreement including this clause.

15.Indulgences: If either party at any time breaches any of that party's obligations under the Agreement, the other party ("the aggrieved party"): "It is expressly agreed that any indulgence shown extension given or right waived whether relating to payment due hereunder or any other matter or thing shall in no way operate as an estoppel against the indulgent party nor in any manner limit such party's rights hereunder or modify or alter same and the parties shall be entitled at any time to exercise their rights hereunder as though no indulgence was shown extension given or right waived.

15.1. Save as otherwise herein provided neither this clause nor any other part nor the whole of this agreement may be amended varied substituted suspended waived relaxed novated canceled or reinstated or time for performance extended unless such act be reduced to writing and signed by the parties hereto or their agents duly and specifically authorised thereto in writing." Shall not be prevented from exercising the aggrieved party's rights arising out of the breach, despite the fact that the aggrieved party may have elected or agreed on one or more previous occasions not to exercise the rights arising out of any similar breach or breaches.

16.Applicable law: The Agreement shall be interpreted and implemented in accordance with the laws of the Republic of South Africa.

17.Blacklisting: The Subscriber hereby gives permission to SkyFi to register the information into the Subscriber's payment conduct to any registered credit Bureau.

17.1. The Subscriber waives its/his/her right to claim against SkyFi in relation to the disclosure of information related to this provision. SkyFi will give the Subscriber 20 (twenty) business days of its intention to provide to a credit bureau any adverse payment information; and SkyFi reserves its right to Blacklist the Hardware on the blacklisted account to prevent the further usage thereof.

18.Acknowledgments: The Subscriber acknowledges having read and accepted the terms and conditions of the Acceptable and Fair Usage Policy on SkyFi website as well as the terms and conditions as set out herein.

18.1. The Subscriber acknowledges that these terms and conditions may vary from time to time and shall be updated on SkyFi's website. The Subscriber further acknowledges that the terms and conditions available on SkyFi's website will be applicable and binding in respect of any dispute arising.

18.2. The Subscriber acknowledges that any Add Ons supplied to the Subscriber is in accordance to a separate agreement that the Subscriber is entering into. The Add Ons are governed in accordance with their own terms and conditions.

18.3. Furthermore, the Subscriber acknowledges that these terms and conditions will remain in force and effect until the end of the agreement entered into with the Subscriber.

SUBSCRIBER TERMS AND CONDITIONS



18.4. The Subscriber acknowledges that SkyFi reserves the right to not provide any free or promotional initiatives to downward migrated contract/s.

18.5. You acknowledge that the display of products is not a guarantee of the availability of any Hardware and that certain Hardware products may not be in stock at the time of submitting your order and delivery thereof may be delayed.

18.6. Notwithstanding this, such delay/s shall not entitle the subscriber to withdraw the subscriber

18.7. Subscribers your order unless we agree with you in writing that the duration of delay is unreasonable.

18.8. The Subscriber acknowledges that the Service is provided on a best effort basis, SkyFi may not be held liable for any consequence/s as a result of the result of the failure of the Service to fulfill the Subscriber's expectations.

18.9. The Subscriber acknowledges having read the voice rates as published on <http://www.skyfi.co.za>.

19. Interception of communications:

19.1. Subject to the provisions of Regulation of Interception of Communications and Provision of Communication-related information Act (RICA), 70 of 2002, the Subscriber acknowledges SkyFi's right to intercept, block, filter, read, delete, disclose and use all communications/data sent or posted via SkyFi's network.

20. Security

20.1. The Subscriber acknowledges that there is a password that will be provided upon activation of the Services and that the responsibility lies with the Subscriber to change the password to avoid access by any unauthorised user.

20.2. The Subscriber further acknowledges that no unsupervised access to the Service will be allowed to minors.

Authorized Signatory Name:

Date:

Place:

SIGNATURE

SUBSCRIBER TERMS AND CONDITIONS

Subscriber Standard Terms and Conditions UPDATED: 01 MAR 2019

1. Definitions

- 1.1. "Acceptable Use Policy" means the document with that heading available at the SkyFi's Website, as amended from time to time.
- 1.2. "Agreement" means these Subscriber Standard Terms and Conditions, as well as the relevant Service Order(s) and any schedules or annexures relating to them or to this document, which all form part of the Agreement.
- 1.3. "Business Day" means any day other than a Saturday, a Sunday or a public holiday in the Republic of South Africa.
- 1.4. "Calendar Month" means the period from the 1st day of a month to the last day of that month.
- 1.5. "Charges" means charges related to the provision of the Services including but not limited to, monthly Service charges, usage charges activation of Services, installation fees, costs of subsidizing the Hardware, administration costs, postage charges, Hardware restoration costs, packaging costs and any other charges pertaining to the provision of the Services.
- 1.6. "CPA" means the Consumer Protection Act No. 68 of 2008.
- 1.7. "Data" means electronic representations of information in any form.
- 1.8. "Effective Date" means:
 - 1.8.1. in respect of the Agreement, the date stipulated as such on the cover sheet hereof; and
 - 1.8.2. in respect of each Service Order, the effective date stipulated on the cover sheet of such Service Order, and failing such stipulation the date of acceptance of such Service Order by SkyFi;
- 1.9. "Early Cancellation Charges" means the charges due to SkyFi including but not limited to cooling off period cancellation charges to be determined by SkyFi, administrations costs, outstanding usage charges, costs of subsidizing the Hardware, Hardware restoration and packaging costs and outstanding Monthly Subscription Fees.
- 1.10. "Hardware" means any hardware supplied to the Subscriber by SkyFi in terms of this Agreement but which the Subscriber does not own, or any hardware possessed by SkyFi.
- 1.11. "Installation" means the installation of Hardware at a location or Subscriber laptop/desktop or similar device specified by the Subscriber in a Service Order.
- 1.12. "Internet" means the interconnected system of networks that connect computers around the world via the TCP/IP protocol.
- 1.13. "Monthly Allocation" means the commencement value of the Subscriber's Data balance at the commencement of each Calendar Month according to the Subscriber's selected Service Package.
- 1.14. "Monthly Subscription Fee" means the service fee payable by the Subscriber to SkyFi monthly in advance.
- 1.15. "Personal Information" means any information such as a name, identification number, an online identifier or information pertaining to an individual's physical, physiological, genetic, mental, economic, cultural or social identity relating to that natural person, that can be used to directly or indirectly identify such person.

- 1.16. **"Personnel"** means any director, employee, agent, consultant, contractor or other representative of a Party.
- 1.17. **"Parties"** means SkyFi and the Subscriber and "Party" refers to either of them as so determined by the context.
- 1.18. **"Regulatory Authority"** means the Independent Communications Authority of South Africa/ICASA".
- 1.19. **"RICA"** means the Regulation of Interception of Communications and Provision of Communication-related Information Act 70 of 2003.
- 1.20. **"Services"** means the broadband wireless Internet access services, value-added Internet Protocol ("IP") services, virtual private network ("VPN") services, corporate managed Data network services, closed user group and video conferencing services made accessible to the Subscriber by SkyFi in terms of the Agreement.
- 1.21. **"Service Packages"** means the Data Service Packages offered by SkyFi.
- 1.22. **"Service Order"** means an order placed by a Subscriber on SkyFi for the provision of the Services and/or Hardware.
- 1.23. **"SkyFi"** means Skyfi Internet Solutions (Pty) Ltd, registration number 2014/274610/07, a company registered in terms of the laws of the Republic of South Africa.
- 1.24. **"SkyFi Website"** means the Internet website published at the URL "http://www.skyfi.co.za/" or another URL that SkyFi notifies the Subscriber of from time to time.
- 1.25. **"Standard Terms"** means the Subscriber Standard Terms and Conditions (this document) and includes the Acceptable Use Policy and Privacy Policy.
- 1.26. **"Subscriber Application Form"** means either the physical or online application form completed by either a Business or Individual Subscriber and forms part of the Agreement.
- 1.27. **"Subscriber"** means either the Business or Individual Subscriber to whom the Hardware and Services are provided in terms of this Agreement and whose details appear on the Subscriber Application Form, their successors or authorised assignees.
- 1.28. **"Time and Materials Rate"** means SkyFi's standard time and materials fees and charges applicable from time to time, including all expenses reasonably and actually incurred by SkyFi, including for travel, accommodation and subsistence.
- 1.29. **"Top-up"** means to purchase additional Services from SkyFi such as Data.
- 1.30. **"VAT"** means Value Added Tax as provided for in the Value Added Tax Act 89 of 1991.

2. Agreement

- 2.1. The Services that SkyFi will provide to the Subscriber will be described in Service Orders.
- 2.2. These Standard Terms apply to all Service Orders.
- 2.3. Each Service Order and this document together form the Agreement between SkyFi and the Subscriber. If the Parties agree to an annexure to any of these documents, these will also form part of the Agreement.
- 2.4. These Standard Terms include the Privacy Policy and Acceptable Use Policy, which is included herein by reference.

- 2.5. If there is any conflict between any of these documents, they will be interpreted in descending order of precedence as follows: Standard Terms, Service Order, and Acceptable Use Policy, unless otherwise expressly stated in writing.
- 2.6. By completing Service Order, the Subscriber agrees to adhere to the provisions of these Standard Terms. If the Subscriber does not agree to these Standard Terms, he/she must cease their use of SkyFi's Services immediately.

3. Amendment of Terms

- 3.1. If the Agreement is fixed-term, then SkyFi may amend these Standard Terms, but these changes will only come into force when the Agreement is next renewed.
- 3.2. If the Agreement is renewable monthly, then:
- 3.2.1. SkyFi must give at least 1 (one) Calendar Month's notice of an amendment, which will become effective at the beginning of the first Calendar Month after the notice period has expired; and
- 3.2.2. If the Subscriber objects to any amendment, it may terminate the Agreement immediately during the notice period.
- 3.3. The amended documents will be posted on the SkyFi Website, and SkyFi will as soon as possible after posting the amendments make reasonable efforts to advise the Subscriber of them by email. The Subscriber has a duty to keep itself informed of the latest version of the above documents by accessing the SkyFi Website on a regular basis.

4. Initiation

- 4.1. SkyFi reserves the right to refuse to commence provision of Services based on the Subscriber's prior conduct.
- 4.2. SkyFi cannot guarantee the provision of the requested Service upon the receipt of a Subscriber Application Form. Provision of the Service is subject to SkyFi confirming that it is technically feasible to do so.
- 4.3. A Subscriber Application Form must be submitted via the SkyFi Website. Once a Subscriber Application Form is accepted by SkyFi, it becomes a Service Order.
- 4.4. SERVICES WILL ONLY WORK IN THE COVERAGE AREA AND SKYFI WILL PROVIDE COVERAGE ON A REASONABLE ENDEAVOURS BASIS.
- 4.5. Delivery of Services is dependent on signal availability and demand for Services in any particular area. SkyFi does not warrant or guarantee Service for any specific areas, whilst every effort will be made to give Subscriber's an indication of possible Service.
- 4.6. **THE SUBSCRIBER CONSENTS TO SKYFI CARRYING OUT A CREDIT CHECK ON THE SUBSCRIBER AT ANY APPLICABLE CREDIT BUREAU, AND MAY MAKE THE PROVISION OF THE SERVICES DEPENDANT ON ITS SATISFACTION WITH THE RESULTS. SKYFI MAY PROVIDE INFORMATION ON THE SUBSCRIBER'S PAYMENT RECORD TO A CREDIT BUREAU.**
- 4.7. If the Subscriber is a juristic person, SkyFi may require one or more of its officers to stand surety for the Subscriber's obligations under this Agreement. Even if the Agreement has commenced, SkyFi may withhold providing the Services until the surety has been signed.

- 4.8. Depending upon the Service provided, SkyFi may be obliged under RICA to obtain certain information from the Subscriber, and SkyFi may withhold or suspend providing Services until the Subscriber has provided the necessary information and/or documents to SkyFi.
- 4.9. If the Subscriber has not complied with a requirement of this clause, SkyFi may delay providing the Services until the Subscriber has complied. If the Subscriber does not comply within a reasonable period, SkyFi may terminate this Agreement and will not be liable for any damage that the Subscriber may suffer as a result.
- 4.10. Commencement of the Services is subject to a 7 (seven) day cooling-off period from the Effective Date which will be interrupted if the Service in question is made available to the Subscriber during this period with the Subscriber's consent.

5. Choice of Services and Products

- 5.1. **SKYFI OFFERS ONLINE APPLICATION AND SIGNUP FOR ALL SERVICES VIA THE SKYFI WEBSITE. THE SUBSCRIBER IS SOLELY RESPONSIBLE FOR ENSURING THAT THEIR CHOICE OF SERVICE CONFORMS TO THEIR REQUIREMENTS OR DESIRED OUTCOME. SKYFI WILL NOT BE LIABLE FOR COMPENSATION, COSTS OR DAMAGES RESULTING FROM INCORRECT SELECTION OF SERVICES, OR RESULTANT DELAYS IN RECTIFYING SUCH ERRORS.**
- 5.2. **SKYFI PROVIDES SERVICES ON THE BASIS OF INFORMATION PROVIDED BY THE SUBSCRIBER, AND SKYFI OFFERS NO WARRANTY AS TO THE SUITABILITY OF THE SERVICES BEYOND THE REQUIREMENTS AS EXPRESSED BY THE SUBSCRIBER.**
- 5.3. SkyFi reserves the right to stop offering particular Services if it deems it necessary. SkyFi will then either provide the Service for the remainder of the time that has been paid for or refund the amount paid for that specific package.

6. Term of Agreement and Renewal

- 6.1. The Agreement will be in force from the Effective Date or the date on which the Subscriber signs or indicates acceptance of a Service Order in some other way, and will continue in force for the period stated on the Service Order. If the Service Order does not specify a time period, the Agreement will be in force for 24 (twenty four) months ("Term").
- 6.2. Where the commencement of a Service is delayed, the termination date of the Agreement will be calculated from the date that the Service commenced.
- 6.3. This Agreement may be terminated by the Subscriber, without reason or penalty, within a period of 5 (five) calendar days from the Effective Date of the Service Order, if the Agreement resulted from any form of direct marketing. Such Subscriber shall be refunded any payments which was received by SkyFi in terms of the said Agreement, within 15 (fifteen) days after notice of cancellation. On a similar accord, the Subscriber must return any or all Hardware which was received from SkyFi.
- 6.4. If the Subscriber is a natural person, then SkyFi will give the Subscriber written notice that the current Term of the Agreement is coming to an end. This notice must be given not more than 80 (eighty) and not less than 40 (forty) Business Days before the expiry of the current period, and will state the following:
- 6.4.1. the expiry date of the current Term,
 - 6.4.2. any material changes that will apply to the Agreement beyond the expiry date, and
 - 6.4.3. the Subscriber's right to either terminate the Agreement or renew for a further period.

If the Subscriber doesn't either terminate or renew the Agreement, it will automatically renew on a month-to-month basis, subject to any changes described in the notice, until terminated by either Party on one month's notice.

- 6.5. If the Subscriber is not a natural person, then the Agreement will automatically renew on a month-to-month basis at the end of its period, subject to any changes made to the Standard Terms, until terminated by either Party on one month's notice.
- 6.6. The Subscriber acknowledges that, upon termination of the Agreement and where there has been unused Data, airtime or related service, SkyFi shall not be obliged to in any way, convert such unused Data, airtime or related service into credit on the Subscriber's account and or refund same to the Subscriber.

7. Service Orders

- 7.1. SkyFi will provide the Services to the Subscriber as described in Service Orders in terms of the Agreement.
- 7.2. A Service Order may be signed in hard copy (in counterparts or not), entered into via the SkyFi Website, per email or by another method made available by SkyFi.
- 7.3. The Service Order placed by the Subscriber to SkyFi is subject to SkyFi's acceptance.
- 7.4. **EACH SERVICE ORDER WILL BE A SEPARATE CONTRACT BETWEEN THE SUBSCRIBER AND SKYFI (UNLESS THE SERVICE ORDER IS AMENDED OR RENEWED BY ANOTHER SERVICE ORDER).**
- 7.5. **THE TERMS OF ONE SERVICE ORDER WILL NOT APPLY TO ANOTHER, UNLESS A SERVICE ORDER AMENDS OR RENEWS AN EXISTING SERVICE ORDER OR ADDS SERVICES TO AN EXISTING SERVICE ORDER.**

8. Risk and Ownership in Hardware

- 8.1. Ownership of all Hardware is retained by SkyFi (or the supplier of the Hardware as the case may be) and nothing in this Agreement must be interpreted as creating any expectation with regard to the transfer of ownership to the Subscriber.
- 8.2. The Subscriber may purchase Hardware only by agreeing to do so in writing in a Service Order or by way of a separate agreement, in which case ownership in the Hardware will pass to the Subscriber only once payment has been made for it in full.
- 8.3. Should the Subscriber discover any fault or defect in the Hardware, the Subscriber must within 6 (six) months after purchase return the Hardware to SkyFi in the same condition and packaging as the Hardware was purchased along with the proof of purchase. SkyFi will replace the damaged or faulty Hardware. In the event of the Subscriber not returning the Hardware packaging to SkyFi, SkyFi may charge the Subscriber a packaging fee.
- 8.4. Delivery of Hardware will take place when SkyFi passes possession of the Hardware to the Subscriber, its Freight Forwarder, or a third party nominated by the Subscriber, or when SkyFi delivers it to any location indicated in writing by the Subscriber where the Hardware is not under the control of SkyFi.
- 8.5. **RISK IN THE HARDWARE WILL PASS TO THE SUBSCRIBER ON DELIVERY, FROM WHICH MOMENT ALL RISK OF DAMAGE AND LOSS IN THE HARDWARE WILL FALL ON THE SUBSCRIBER, WHICH MUST TAKE RELEVANT STEPS TO INSURE THE HARDWARE AND OTHERWISE MITIGATE ITS RISK OF LOSS THEREIN.**

- 8.6. If the Subscriber requires that the Hardware set out in a Service Order be delivered to a third party, the Subscriber must procure the services of an appropriate Freight Forwarder for the purpose, and risk of loss or damage to the Hardware will pass to the Subscriber upon SkyFi's delivery of such Hardware to the nominated Freight Forwarder.
- 8.7. Should the Subscriber return the Hardware for any reason whatsoever, the Subscriber must furnish SkyFi with the original tax invoice provided on purchase of the Hardware.
- 8.8. SkyFi's obligations in terms of any warranties pertaining to the Hardware shall be limited to 1 (one) year from the Effective Date of the Service Order.
- 8.9. SkyFi reserves its right to limit the number of Hardware devices that may be linked to a Subscriber account. The Subscriber may only log onto the network once from each account and may not establish multiple log-on sessions simultaneously from the same account. SkyFi reserves its right to charge an additional subscription Charge to allow multiple simultaneous log-ons to the network from the same account.
- 8.10. If the Subscriber migrates from one Service Package option to another, SkyFi may vary the amount of the subsidy applied at the time of the sale of the Hardware to the Subscriber. If the subsidy amount is reduced, SkyFi shall be entitled to require the Subscriber to pay to SkyFi the amount by which the subsidy has been reduced. It being understood that this charge does not constitute a migration fee but enables SkyFi to adjust the subsidy amount to the amount that would have been applicable at the time of sale of the Hardware if the Subscriber had first chosen the package option to which the Subscriber is changing.

9. Use and Maintenance of Hardware

- 9.1. This clause 9 applies only where Subscriber is not the owner of the Hardware but risk has passed to the Subscriber as described in clause 8.5, for example where SkyFi has leased the Hardware to the Subscriber, or the Subscriber is paying for the Hardware in instalments.
- 9.2. SkyFi may in its discretion refer the Subscriber to a third party who may undertake the installation of the Hardware in its own name and behalf and not as an agent of SkyFi.
- 9.3. The Subscriber must:
 - 9.3.1. ensure that the Hardware remains in a safe environment that is conducive to its continued operation;
 - 9.3.2. ensure that the Hardware is used with care and that reasonable precautions are taken to avoid accidents and to safeguard it from loss or damage and excessive wear and tear;
 - 9.3.3. notify SkyFi immediately of any loss of, or damage to, the Hardware or part thereof or any failure of the Hardware to function;
 - 9.3.4. ensure that no part or component for the Hardware is used which has not been supplied by SkyFi or its authorised subcontractors;
 - 9.3.5. ensure that the Hardware is insured at a reasonable value against any damage or loss;
 - 9.3.6. not rent, sell, mortgage or otherwise encumber the Hardware without the prior written consent of SkyFi;
 - 9.3.7. provide SkyFi with all such information as it may reasonably require to protect its right of ownership in the Hardware;

- 9.3.8. ensure that the Hardware does not leave the Subscriber's possession, and no person other than its Personnel is permitted to use the Hardware without SkyFi's prior written consent;
 - 9.3.9. provide reasonable access to the Hardware by SkyFi or its agents (upon request) for maintenance and/or repairs; and
 - 9.3.10. reimburse SkyFi for any repairs and/or maintenance needed to the Hardware at the Time and Materials Rate, provided that the Subscriber authorises the cost of such repairs and/or maintenance prior to implementation.
- 9.4. Where Hardware is installed or stored on or at a premises which is leased from a third party or otherwise not owned by the Subscriber then the Subscriber undertakes to:
- 9.4.1. obtain all such consents and permissions as may be necessary so as to allow the installation and maintenance of the Hardware; and
 - 9.4.2. IN THE CASE OF A DISPUTE WITH THE LANDLORD OR OWNER OF THE PREMISES, INFORM THE LANDLORD OR OWNER OF THE PREMISES IN WRITING OF THE FACT THAT THE HARDWARE IS THE PROPERTY OF SKYFI AND DOES NOT BELONG TO THE SUBSCRIBER. THE SUBSCRIBER SPECIFICALLY INDEMNIFIES AND HOLDS HARMLESS SKYFI IN RESPECT OF ANY BREACH OF THIS CLAUSE.
- 9.5. Under no circumstances is the Subscriber permitted to authorise or carry out technical maintenance on any Hardware without the prior written permission of SkyFi. Any modification or re-configuration carried out or attempted by the Subscriber or any third party authorised to do so by the Subscriber without the express prior written approval of SkyFi is strictly prohibited and SkyFi specifically reserves its right to claim damages should this clause be breached.
- 9.6. The Subscriber will be responsible for obtaining all necessary approvals and authorities imposed by any competent authority or body (this includes but is not limited to body corporates, provincial and local municipalities) and required for the purpose of any such supply and/delivery and/installation, the Subscriber hereby indemnifies SkyFi against any claim or liability suffered by reason of such approval and authorities not having been obtained.
- 10. Identity Verification Requirements**
- 10.1. SkyFi (and any of its agents) can only perform RICA checks on natural persons (individuals), and as a result the Agreement for provision of the Service will always be with a natural person. SkyFi assumes that the Subscriber will apply for and make use of the Service in its capacity as a natural person, and not as the representative of a juristic person (such as a company). The Subscriber will be personally responsible for its use of the Service and all obligations under this Agreement.
 - 10.2. Use of the Services is subject to ID verification and / or proof of address, required by RICA, and will not be provided before such process has been completed to SkyFi's satisfaction. Subscribers are required to present their original valid Identity Document, as well as a clear, legible copy. Non-South African citizens may submit a copy of their valid Passport along with supporting documents upon request. Verification documents must contain photo identification. Failure to produce ID verification for an account will result in the product not being activated or handed over, regardless of any pro-rata amounts billed.
 - 10.3. Should the Subscriber cancel all current valid Services, ID verification will be required to sign up for new Services. ID verification will not be requested as long as verified Services remain active.

- 10.4. If a Subscriber sells or in any manner provides an activated SIM to any other person who is not a family member, then the Subscriber must immediately notify SkyFi so that the RICA process can be carried out for that other person.

11. Fees and Payment

- 11.1. The Subscriber must pay the Monthly Subscription Fee set out in the Service Order for the Services, or if the Monthly Subscription Fee has been changed, that new Fee.
- 11.2. SkyFi may insist that the Subscriber pays by way of debit order.
- 11.3. Unless otherwise agreed in writing:
- 11.3.1. Billing will commence on the date that Service provision commences.
 - 11.3.2. The Subscriber shall effect payment to SkyFi for Monthly Subscription Fees monthly in advance, within 7 (seven) days from date of the relevant invoice.
 - 11.3.3. Fees in respect of the procurement and installation of Hardware will be invoiced upon receipt of the applicable Service Order and must be paid before SkyFi will provide the Service.
 - 11.3.4. All amounts payable are quoted exclusive of VAT, unless otherwise specified.
- 11.4. Interest will be charged on any amount that remains unpaid by the Subscriber beyond the due date of payment:
- 11.4.1. The interest rate will be 2% (two percent) above the prime overdraft rate (percent, per annum), up to a maximum of 2% per month.
 - 11.4.2. The prime overdraft rate will be as charged by SkyFi's bankers at the time, which will be evidenced by a certificate issued by any manager of that bank, whose authority it shall not be necessary to prove.
 - 11.4.3. The interest will be calculated from the due date of payment to the date of actual payment, both days inclusive, and will be compounded monthly in arrears. The Subscriber agrees and undertakes to pay the interest.
- 11.5. SkyFi may suspend providing Services for which any amount is outstanding after 7 (seven) days of date of invoice on written notice to the Subscriber, unless the Subscriber has lodged a billing complaint with SkyFi. If a Service is suspended for any reason, the Subscriber will still have to make payment of further Fees for that Service or any other amounts due to SkyFi.
- 11.6. If a particular Service is provided by Calendar Month, and the commencement date for that Service is not the beginning of a Calendar Month, the Monthly Subscription Fee for that first month will be reduced proportionately.
- 11.7. SkyFi may decrease the Monthly Subscription Fees charged for Services at any time, and will increase Fees only with reasonable notice to the Subscriber:
- 11.7.1. SkyFi must give at least one Calendar Month's notice of a price increase, which will become effective at the beginning of the first Calendar Month after the notice period has expired; and
 - 11.7.2. If the Subscriber objects to the price increase, it may terminate the Agreement immediately during the notice period.

- 11.8. If SkyFi agrees to perform any task that is not listed in a Service Order, then the Subscriber must reimburse SkyFi for all reasonable expenses that are necessarily and actually incurred by SkyFi and SkyFi's Personnel in doing so. These expenses will include but are not limited to travelling, subsistence, goods and services purchased on the Subscriber's behalf, communications, stationery, report and presentation material.
- 11.9. **SKYFI MAY AT ANY TIME ON REASONABLE WRITTEN NOTICE TO THE SUBSCRIBER VARY ITS INVOICING AND PAYMENT PROCEDURES AND REQUIREMENTS.**
- 11.10. **IN THE EVENT THAT SKYFI REQUIRES PAYMENT FOR THE SERVICES PROVIDED TO THE SUBSCRIBER TO BE MADE BY DEBIT ORDER, THE SUBSCRIBER WILL COMMIT A MATERIAL BREACH OF THE AGREEMENT IF THE SUBSCRIBER CANCELS SUCH DEBIT ORDER WITHOUT THE WRITTEN CONSENT OF SKYFI OR CHANGES HIS/HER BANKING DETAILS ON WHICH THE DEBIT ORDER RELIES, WITHOUT GIVING SKYFI PRIOR NOTIFICATION OF SUCH CHANGE AND PROVIDING SKYFI WITH INCORRECT BANKING DETAILS.**
- 11.11. SkyFi may charge an admin fee for failed or returned payments, regardless of method of payment or the reason for non-payment. Such admin fees are payable immediately and in conjunction with the outstanding fees which resulted in non-payment. Admin fees will be calculated on a sliding scale based on the number of incidents of non-payment on the Subscriber's payment record. Non-payment of admin fees will be considered non-payment and will be subject to the same terms. Once levied, admin fees are not recoverable or reversible, regardless of whether payment is made within the prescribed period.
- 11.12. The monthly invoices shall be sent by SkyFi to the Subscriber to the email address supplied by the Subscriber to SkyFi and the Subscriber agrees to accept invoices in such format.
- 11.13. Any migration from one Service Package option to another during the Term shall be subject to SkyFi's approval, in its discretion, and SkyFi shall be entitled to levy fees for migrations, which fees may not exceed the amounts approved or fixed by the responsible Regulatory Authority from time to time. The Subscriber acknowledges that there will be no Data carried over in the event of any type of migration.
- 11.14. The Subscriber agrees that it will at all times be responsible for payment of any and all Charges incurred by it arising from the use of the voice services provided to it in terms of this Agreement. Such usage Charges may include without limitation:
- 11.14.1. Charges incurred by the Subscriber (or any other person or entity) regardless of whether or not the use was permitted or even known to the Subscriber;
- 11.14.2. Charges incurred as a result of any soft cap or credit limit imposed being exceeded.
- 11.15. In the case of billing disputes, the onus is upon the Subscriber to raise such disputes in good time at accounts@skyfi.co.za to prevent interruption of Services while the billing is in dispute. Reparations will be made to Subscribers with successful disputes by means of an account credit or refund, at SkyFi's discretion.

12. Suspension

- 12.1. SkyFi may suspend providing the use of Services to the Subscriber if:
- 12.1.1. a court of competent jurisdiction so orders;
- 12.1.2. SkyFi needs to carry out emergency maintenance;

- 12.1.3. the Subscriber fails to perform any of the Subscriber's obligations, or breaches any terms of the Agreement;
 - 12.1.4. where the Subscriber is in consistent breach of the Acceptable Use Policy;
 - 12.1.5. SkyFi has reasonable grounds to believe that the Services are being used fraudulently, or illegally, or in violation of the terms of this Agreement.
- 12.2. If the Subscriber's Services are suspended or terminated for any reason, including non-payment, SkyFi may charge a reasonable reconnection fee for subsequent reactivation of Services. Reconnection fees are payable in full before any Services can be reactivated, once suspended. SkyFi may charge multiple reconnections fees where multiple products are affected, and may charge "escalating" penalties for repeated non-payment offences. Any prior leniency shown in this regard will not prejudice SkyFi's right to enforce such penalties in full at any time (within their discretion).
- 12.3. Reconnection of Services may be subject to a waiting period of up to 72 hours, at SkyFi's discretion, regardless of when payment is received or cleared.
- 12.4. SkyFi reserves the right to levy both reconnection fees and admin fees (as charge in terms of clause 11.11). Any and all penalty fees must be settled in full, prior to reconnection of affected Services. Both admin and reconnection fees will not exceed R400 in total (charged on a sliding scale based on the number of incidents of non-payment), and this amount is based on (but not limited to) a reasonable estimation of accumulated administrative costs (such as labour), bank penalties and resubmission charges levied by payment carriers.
- 12.5. The period of suspension will be that which is reasonable under the particular circumstances that gave rise to the suspension.
- 13. Use of the Services**
- 13.1. THE SUBSCRIBER ACCEPTS THAT IT IS RESPONSIBLE FOR ALL OF THE CONSEQUENCES OF ITS OWN ACTIVITIES AND THOSE OF ITS EMPLOYEES, OFFICERS, AGENTS, INDEPENDENT CONTRACTORS AND ALL OTHERS UNDER ITS CONTROL WHEN USING THE SERVICES.
- 13.2. The Subscriber must make use of the Services in a considerate and lawful way, and SkyFi has developed an Acceptable Use Policy that contains reasonable rules of conduct for the use of the Service. The Acceptable Use Policy as amended is available for viewing on the SkyFi Website.
- 13.3. THE SUBSCRIBER MUST COMPLY WITH THE ACCEPTABLE USE POLICY AND ENSURE THAT ANYONE UNDER ITS CONTROL THAT USES THE SERVICES ALSO DOES SO. A BREACH OF THE ACCEPTABLE USE POLICY IS A BREACH OF THE SUBSCRIBER'S DUTY TO ACT IN A CONSIDERATE AND LAWFUL WAY.
- 13.4. Network security threats evolve quickly, and behaviours change as technology changes. As a result, SkyFi must be able to amend the Acceptable Use Policy at any time and reserves the right to do so. Because the Subscriber has a general duty to act in a considerate and lawful way, an amendment to the Acceptable Use Policy is not an amendment of this Agreement.
- 13.5. SkyFi may use upstream suppliers in providing certain Services, which may maintain their own acceptable use policies. SkyFi will inform the Subscriber if this is the case. The Subscriber agrees to abide by these policies in using the relevant Services. SkyFi may treat a breach of a supplier's acceptable use policy as if it were a breach of SkyFi's Acceptable Use Policy.

14. Allocation of Data

- 14.1. Subscribers will be allocated a monthly amount of Data (bandwidth) each month in accordance with their selected Service Package.
- 14.2. SkyFi will not default a Subscriber onto out-of-bundle Data charges upon depletion of the Subscriber's Data bundles.
- 14.3. The Subscriber consents to SkyFi allocating the Subscriber's Monthly Allocation and setting up threshold usage notifications.

15. Rollover of Data

- 15.1. Any unused Monthly Allocation of Data will be rolled over on the last day of that month and be available for use in the following Calendar Month.
- 15.2. Data will first be consumed from the rolled over Data, before using the new Monthly Allocation or any newly purchased Data in the same month.
- 15.3. Subscribers who request a package change will forfeit any rolled over Data from their previous package.

16. Topping Up of Data

- 16.1. IF THE SUBSCRIBER EXHAUSTS THE PURCHASED DATA OR REACHES THE FIXED CAP, THE SUBSCRIBER WILL BE HARD-CAPPED. THIS MEANS THAT NO FURTHER ACCESS WILL BE PROVIDED THEREAFTER.
- 16.2. Subscribers can manually Top-up via SkyFi. There is no limit to the aggregate of manual Top-ups that a Subscriber may perform during a Calendar Month.
- 16.3. The minimum threshold may also be used for threshold usage notifications to be sent by SkyFi to the Subscriber.
- 16.4. A Top-up may be subject to different terms and conditions and any pricing or promotions applicable to the monthly purchased package may not necessarily apply to the Top-up.

17. Uncapped Services

- 17.1. In order to provide a reasonable service to all of its Subscribers using the resources at its disposal, SkyFi may employ selective shaping and throttling depending upon the capacity and load on its network at any given time.
- 17.2. If SkyFi's network capacity is stretched it may dynamically shape and throttle certain Subscriber's uncapped accounts to relieve congestion. Should the network congestion reduce, the level of shaping and throttling will be reduced or removed.
- 17.3. The uncapped Subscribers to be shaped and throttled will be chosen based on their historic bandwidth usage, and those who have used the most bandwidth will be throttled first if there is network congestion.
- 17.4. Capped accounts will not be throttled or shaped. Capped accounts will always get as much speed as their line and SkyFi's network allow.
- 17.5. THE SUBSCRIBER CONSENTS TO SHAPING AND THROTTLING AS SET OUT IN THIS CLAUSE 17.

18. Service Levels

- 18.1. SkyFi may make use of upstream providers to itself provide the Service, and consequently service levels may be subject to the performance of such upstream providers. Other factors may also impact the quality of the Service, including network availability, quality of signal, interference and speed limitations. As a result, SkyFi can only provide the Service on a “reasonable effort” basis and makes no warranties as regards quality of the Service, including Data throughput and availability of the Service.
- 18.2. The Service provides access to the internet, which is subject to bandwidth constraints, system failures and all manner of other factors that may impact on the Subscriber’s access, for which SkyFi accepts no responsibility.
- 18.3. The contention ratio applicable to the Service will fluctuate depending upon the time of day and other factors. The Subscriber accepts that due to the contention ratio the throughput on the Service will rarely reach the maximum theoretical level.

19. Support

- 19.1. The Subscriber will be responsible for reporting faults in the Service to SkyFi to support@skyfi.co.za.
- 19.2. SkyFi will provide support for the Service during Business Hours either telephonically or as set out on the SkyFi Website and will resolve faults relating to the Services on a reasonable effort basis.
- 19.3. Skyfi will attempt to resolve all faults within 72 hours but the Subscriber understands that this is not reasonability possible in all circumstances.
- 19.4. For the avoidance of doubt, support will not include anything which is out of the reasonable control of SkyFi, including without limitation:
- 19.4.1. faults in the Subscriber’s Hardware such as its computer or modem;
 - 19.4.2. faults with the Subscriber’s telecommunication service provider’s system or Hardware; and
 - 19.4.3. faults in SkyFi's service providers’ networks or Hardware.
- 19.5. Should the fault lie with another party, SkyFi will make reasonable efforts to advise that other party of the fault.
- 19.6. Should SkyFi attend at the Subscriber’s premises to repair a fault and find that the fault is not the responsibility of SkyFi, it will charge the Subscriber a call-out fee.

20. Consent/Authority

- 20.1. The Subscriber hereby consents/authorises SkyFi at any time, without notice to the Subscriber to obtain information about the Subscriber’s profile from any authorised and registered credit reference agency in the Republic of South Africa. The Subscriber consents/authorises SkyFi to provide regular reports in respect of Subscriber's payment conduct to any authorised and registered credit reference agency in the Republic of South Africa.
- 20.2. The Subscriber consents to receive marketing, promotional updates and client satisfaction surveys from SkyFi.

21. Statutory Compliance

- 21.1. SkyFi is obliged to comply with certain statutory provisions including, but not limited to, those set out in the following Acts (and their associated regulations):

- 21.1.1. the Film and Publications Act 65 of 1996;
 - 21.1.2. the Electronic Communications and Transactions Act 25 of 2002;
 - 21.1.3. the Regulation of Interception of Communications and Provision of Communication-related Information Act (Act 70 of 2003), and
 - 21.1.4. the Electronic Communications Act 36 of 2005.
- 21.2. SkyFi's compliance with these statutory provisions may require measures that would otherwise be infringements of the Subscriber's privacy, such as interception of the Subscriber's communications. No action will lie against SkyFi for any damages that it may suffer as a result of these measures.

22. Limitation of Liability

- 22.1. **SKYFI WILL NOT BE LIABLE TO THE SUBSCRIBER OR ANY THIRD PARTY FOR ANY LOSS THAT RELATES TO OR ARISES FROM THE SERVICES OR THIS AGREEMENT. LOSS INCLUDES DAMAGES AND LEGAL OR OTHER COSTS. DIRECT DAMAGES ARE EXCLUDED, AS ARE INDIRECT, CONSEQUENTIAL OR SPECIAL DAMAGES, AND SKYFI WILL NOT BE LIABLE WHETHER THE LOSS WAS THE RESULT OF THE ACT OR OMISSION OF AN SKYFI EMPLOYEE, BREACH OF CONTRACT, VICARIOUS OR STRICT LIABILITY.**
- 22.2. **IN PARTICULAR, SKYFI WILL NOT BE LIABLE FOR LOSS ARISING FROM ANY OF THE FOLLOWING:**
- 22.2.1. **TERMINATION OF THE AGREEMENT BEFORE COMMENCEMENT OF A SERVICE, DUE TO TECHNICAL INFEASIBILITY;**
 - 22.2.2. **THE SUBSCRIBER'S FAILURE TO TAKE ADEQUATE SECURITY MEASURES;**
 - 22.2.3. **ANY ACT OR OMISSION RELATING TO THE TRANSMISSION OF DATA TO AND FROM THE SKYFI SYSTEM, ITS STORAGE ON THE SKYFI SYSTEM OR ITS PUBLICATION USING THE SKYFI SYSTEM TO THIRD PARTIES, INCLUDING FALSE POSITIVES IN SPAM FILTERING;**
 - 22.2.4. **COMPLIANCE WITH ANY STATUTE DESCRIBED IN CLAUSE 20 (STATUTORY COMPLIANCE);**
 - 22.2.5. **THE INTERRUPTION, SUSPENSION OR TERMINATION OF THE SERVICES THROUGH NO FAULT OF THE SKYFI; AND/OR**
 - 22.2.6. **LOSS OF DATA (INCLUDING FAILURE IN BACKUP OR DISASTER RECOVERY), DAMAGED OR CORRUPTED DATA OR A DELAY OR FAILURE IN TRANSMISSIONS.**
- 22.3. **IF SKYFI IS NONETHELESS FOUND TO BE LIABLE FOR LOSS SUFFERED BY THE SUBSCRIBER, THE TOTAL AMOUNT OF SKYFI'S LIABILITY RELATING TO OR ARISING FROM THE SERVICES OR THIS AGREEMENT WILL BE LIMITED TO THE AMOUNT OF THE MONTHLY SUBSCRIPTION FEES PAID BY THE SUBSCRIBER FOR THE SERVICE FROM WHICH THE DAMAGE AROSE IN THE 12 (TWELVE) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT THAT CAUSED THE DAMAGE.**
- 22.4. If the CPA is applicable to this Agreement, and any provision of this clause 22 is found by a court or tribunal with jurisdiction over SkyFi to be unfair, unreasonable or unjust, then that provision (whether it be a word, phrase or sub-clause) will be severed, and the remainder of this clause 22 will have full force and effect.
- 22.5. **SKYFI SHALL NOT BE LIABLE FOR ANY FRAUDULENT ACTIVITIES THAT MAY OCCUR DUE TO ACCESS BY THIRD PARTIES INTO THE SUBSCRIBER'S ACCOUNT/ CONNECTION/PREMISES/VOICE PLATFORM.**

- 22.6. THE SUBSCRIBER SHALL REMAIN LIABLE FOR THE VOICE ACCOUNT IN THE EVENT OF SUCH FRAUDULENT ACTIVITY TAKING PLACE IN THE SUBSCRIBER'S ACCOUNT.
- 22.7. SKYFI RESERVES ITS RIGHT TO SCAN THE SUBSCRIBER'S VOICE PLATFORM/ HARDWARE FOR ANY EXTERNAL VULNERABILITIES/RISKS.
- 22.8. NOTHING CONTAINED IN THIS CLAUSE 22 WILL LIMIT THE SUBSCRIBER'S LIABILITY IN RESPECT OF CHARGES INCURRED FOR ONGOING SERVICES.
- 22.9. In the case of ambiguity, this clause 22 will take precedence over any expression of the Parties' intention, whether express or implied, that may be contained elsewhere in this Agreement.

23. Indemnity

- 23.1. THE SUBSCRIBER, UNLESS HE/SHE IS A NATURAL PERSON USING THE SERVICE FOR PRIVATE PURPOSES, WILL INDEMNIFY, DEFEND, AND HOLD SKYFI HARMLESS FROM ALL CLAIMS BROUGHT AGAINST SKYFI BY THIRD PARTIES AS A RESULT OF:
- 23.1.1. THE SUBSCRIBER'S USE OF THE SERVICES OTHER THAN AS ALLOWED IN THIS AGREEMENT OR ACCEPTABLE USE POLICY;
- 23.1.2. BREACH OF PRIVACY RIGHTS, OR INFRINGEMENT OF ANY LAW (WHETHER SOUTH AFRICAN OR FOREIGN) GOVERNING DATA PROTECTION OR THE CROSS-BORDER DATA FLOWS BY THE SUBSCRIBER;
- 23.1.3. THE INFRINGEMENT OF ANY RIGHT IN INTELLECTUAL PROPERTY BY THE SUBSCRIBER; OR
- 23.1.4. ANY OTHER WRONGFUL ACT OR OMISSION BY THE SUBSCRIBER.
- 23.2. THE INDEMNIFIED CLAIMS WILL INCLUDE LEGAL COSTS ON THE SCALE AS BETWEEN ATTORNEY AND OWN SUBSCRIBER AND ANY ADDITIONAL LEGAL COSTS.

24. Warranties

- 24.1. SkyFi warrants that:
- 24.1.1. it has the facilities, infrastructure, capacity and capability to provide the Services;
- 24.1.2. it will provide the Services:
- 24.1.2.1. with promptness and diligence and in a workmanlike manner and in accordance with the practices and professional standards of well-managed companies performing services similar to the Services; and
- 24.1.2.2. in accordance with all applicable laws and regulations.
- 24.2. Hardware is guaranteed under the manufacturer's product specific warranties only, and all other guarantees and warranties including common law guarantees and warranties in relation to Hardware are hereby specifically excluded by SkyFi.
- 24.3. Unless expressly set out in this clause and elsewhere in this Agreement and to the maximum extent permitted by law, SkyFi does not make any representations nor does it give any warranties or guarantees of any nature whatsoever in respect of the Hardware or Services, which are provided on a "reasonable effort" basis, and all warranties which are implied or residual at common law are hereby expressly excluded.

24.4. For the avoidance of doubt, SkyFi does not warrant connection quality (including throughput, availability, jitter, latency and packet loss).

25. Cancellation

25.1. The Subscriber may cancel this Agreement:

25.1.1. upon the expiry of its fixed term, without penalty or charge, or

25.1.2. at any other time, by giving SkyFi 20 (twenty) Business Days' notice in writing.

25.2. The Subscriber must submit his/her request for cancellation and the completed cancellation request form available on SkyFi's Website <here> to cancellations@skyfi.co.za.

25.3. SkyFi may cancel this Agreement 20 (twenty) Business Days after giving written notice to the Subscriber of a material failure by the Subscriber to comply with the Agreement, unless the Subscriber has rectified the failure within that time.

25.4. The Subscriber acknowledges that should he/she terminate this Agreement for any reason whatsoever prior to the expiry of the Term, he/she shall be obliged to pay SkyFi reasonable Early Cancellation Charges as well any other applicable Charges due at the time of cancellation. Any Hardware returned as a result of the Subscriber terminating this Agreement in terms of this clause, has to be returned at the Subscriber's expense and in its original condition and packaging.

25.5. The Subscriber may under no circumstances terminate this Agreement without penalty and demand reimbursement for Hardware or any damages of whatsoever nature as a result of the Subscriber's relocation to an area outside of SkyFi's coverage area. It remains the responsibility of the Subscriber to ensure that he/she/it is satisfied with coverage in the area where the Services are provided by SkyFi. Should the Subscriber opt to terminate the Agreement before the expiry date, SkyFi reserves its right to impose an Early Cancellation Charge on the Subscriber.

26. Breach

26.1. If the either Party:

26.1.1. fails to comply with any of its obligations or commits a breach of this Agreement and fails to remedy the default or breach within 5 (five) Business Days after having received a written notice to do so,

26.1.2. resolves to begin business rescue proceedings as contemplated in chapter 6 of the Companies' Act 71 of 2008,

26.1.3. is placed in provisional or final liquidation or sequestration, or judicial management,

26.1.4. enters into any compromise arrangements with its creditors, or

26.1.5. fails to satisfy a judgment taken against it within 10 (ten) Business Days,

the other Party will be entitled either:

26.1.6. to hold the Party in breach to the Agreement; or

26.1.7. to cancel the Agreement.

26.2. The provisions of this clause will not affect the rights of either Party to claim damages in respect of a breach of any of the provisions of this Agreement.

27. Personal information

27.1. THE SUBSCRIBER HEREBY EXPRESSLY AGREE THAT SKYFI MAY COLLECT, USE AND SHARE YOUR PERSONAL INFORMATION THAT HE/SHE HAS PROVIDED ON THE BASIS AND WITH THE PEOPLE AS SET OUT IN OUR PRIVACY POLICY AVAILABLE <HERE>.

28. Assignment, Subcontracting and Reselling

28.1. Neither Party will be entitled to cede, assign, delegate or otherwise transfer the benefit or burden of all or any part of this Agreement without the prior written consent of the other Party, which consent will not be unreasonably withheld or delayed.

28.2. SkyFi may sub-contract its obligations in terms of this Agreement to a third party, provided that:

28.2.1. such sub-contracting will not absolve SkyFi from responsibility for the provision of the Service or complying with its obligations in terms of this Agreement; and

28.2.2. SkyFi will at all times remain the sole point of contact for the Subscriber.

29. Relationship between the Parties

29.1. The Parties agree that the relationship between them is one of commissioner and independent contractor, and nothing in this Agreement will be construed as giving rise to a relationship of employer and employee, whether between Subscriber and SkyFi or between Subscriber and any officer, employee or agent of SkyFi.

29.2. This Agreement does not give rise to a relationship of principal and agent. Neither Party will not be entitled to conclude any agreement on behalf of the other, nor to sign any document on behalf of the other, unless this is specifically authorised in writing by the other.

29.3. SkyFi's right to terminate this Agreement will be regulated by the law of contract alone and neither SkyFi or its employees, officers or agents is "an employee" of the Subscriber as defined in the Labour Relations Act 66 of 1995, s1 of the Basic Conditions of Employment Act 75 of 1997 or any similar statute.

29.4. The relationship between the Parties will not be an exclusive one and both Parties will be free to enter into agreements similar to this one with third parties.

29.5. Both Parties to this Agreement (including the employees, officers and agents of the Parties) undertake to use their best endeavours and exercise good faith in implementing the provisions of this Agreement according to its intent and purpose and they further undertake to pass such resolutions and do all such acts and deeds as may be necessary, to this end.

29.6. In order to facilitate the effective provision of the Services, the Subscriber will:

29.6.1. allow SkyFi reasonable access to its premises in order for SkyFi to provide the Services, and the Subscriber will procure that its employees, officers and agents co-operate with and give SkyFi any necessary assistance in the provision of the Services;

29.6.2. comply with any reasonable instructions given by SkyFi relating to the provision of the Services, as well as SkyFi's relevant policies and procedures, which will be made available to the Subscriber on request;

29.6.3. enter into any agreement with a supplier necessary to allow SkyFi to provide the Services; and

29.6.4. respond to any request for information, access or authorisation as soon as reasonably possible, having regard to the circumstances of the request.

30. Force Majeure

30.1. Neither Party will be liable for any delay or failure in performing any obligation under this Agreement due to any cause beyond its reasonable control, including without limitation: industrial action, sabotage, terrorism, civil commotion, riot, war, fire, explosion, storm, flood, or other natural physical disaster, any act or policy of any state or government or other authority having jurisdiction over either Party, sanctions, boycott or embargo, termination or suspension of upstream service.

31. Notices

31.1. The Parties choose their addresses where they will accept service of any notices/documents for all purposes arising from this Agreement (*domicilium citandi et executandi*):

31.1.1. in the case of Skyfi, **Ground Floor Block D, Meyersdal Eco Office Park, Meyersdal, Alberton, 1447**, and

31.1.2. in the case of the Subscriber the addresses set out in the Subscriber Application Form.

31.2. Either Party may vary its given address or other contact details by notifying the other Party in writing.

31.3. Any notice given in terms of this Agreement must be in writing and any notice given by any Party to another ("the addressee") which:

31.3.1. is delivered by hand will be deemed to have been received by the addressee on the date of delivery; or

31.3.2. is transmitted by email will be deemed to have been received upon confirmation of receipt (not automated receipt) thereof by the addressee; or

31.4. Despite the above:

31.4.1. any notice that SkyFi sends by email to an email account hosted on the SkyFi System by the Subscriber will be deemed to have been received by the Subscriber on the date of transmission; and

31.4.2. if a written notice or communication is actually received by one of the Parties from the other, this will be adequate written notice or communication to that Party.

32. Acknowledgments

32.1. The Subscriber acknowledges that the display of products is not a guarantee of the availability of any Hardware and that certain Hardware products may not be in stock at the time of submitting your order and delivery thereof may be delayed. The display of any product will not constitute an offer from SkyFi.

32.2. The Subscriber acknowledges that the Service is provided on a best effort basis, SkyFi may not be held liable for any consequence/s as a result of the failure of the Service to fulfil the Subscriber's expectations.

32.3. The Subscriber acknowledges having read the voice rates as published on <http://www.skyfi.co.za>.

33. Interpretation

- 33.1. This Agreement will be governed by and construed in accordance with the law of the Republic of South Africa.
- 33.2. In this Agreement, unless the context requires otherwise: - words importing any one gender will include the other gender; the singular will include the plural and vice versa; a reference to natural persons will include created entities (corporate or unincorporate) and vice versa.
- 33.3. Words and expressions defined in any clause will, for the purposes of that clause, bear the meanings assigned to such words and expressions in such clause.
- 33.4. If any provision is a substantive provision conferring rights or imposing obligations on any Party, notwithstanding that it is only in a definitions clause, effect will be given to it as if it were a substantive provision in the body of the agreement.
- 33.5. Clause headings have been inserted for convenience only and will not be used for nor assist or affect its interpretation; where a clause number is cited, it will be deemed to include reference to all subclauses of that numbered clause.
- 33.6. The rule of construction that an agreement will be interpreted against the Party responsible for its drafting or preparation will not apply.

34. General

- 34.1. This Agreement is the whole of the agreement between the parties, and no document or statement not mentioned above will form part of it. Only a written variation, waiver or cancellation agreed to and signed by both Parties will be of any effect.
- 34.2. If one Party chooses not to enforce any part of this Agreement, that does not mean that the Party cannot enforce that part at a later time. If any part of the Agreement is found to be unenforceable, the rest will still be enforceable.
- 34.3. The signatories hereto acting in representative capacities warrant that they are authorised to act in such capacities and accept personal liability under this Agreement should they prove not to be so authorised.
- 34.4. In the event that any part of this Agreement is found to be partially or fully unenforceable for any reason, this will not affect the application or enforceability of the remainder of this Agreement.
- 34.5. If the CPA applies to this Agreement, the provisions of this Agreement will not be interpreted in such a way as to exclude the Subscriber's rights under sections 54 (Right to quality service), 55 (Right to safe, good quality goods), or 56 (Implied warranty of quality) of the CPA. These sections however apply only to the minimum possible extent. Unless the contrary is stated elsewhere in this Agreement, the Subscriber will have no rights in respect of quality of service, safe & good quality goods or implied warranty of quality beyond those explicitly stated in those sections.

35. Contact Information

- 35.1.1. Relevant contact information for SkyFi's departments are available on SkyFi's Website.

Authorized Signatory Name: _____

Date: _____

Skyfi Internet Solutions
Individual Subscriber Application Form



Place: _____

Signature: _____