

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

1. WHAT IS THIS AGREEMENT FOR?

- 1.1. This Agreement is for the supply to you, on an indivisible basis, of the Services, and Equipment (where applicable) for the Contract Period. "Indivisible" means that the supply of the Services and the Equipment are linked together and go hand-in-hand and, for the duration of the Agreement, you will be supplied with both the Services and the Equipment, provided you comply with the Agreement.
- 1.2. The Services will be provided to you by Cell C SP and the Equipment (where applicable) will be supplied to you by the Equipment Supplier.
- 1.3. All payments, queries, concerns, disputes and communication in respect of this Agreement, including those in relation to the Services and the Equipment shall be made and/or referred by you to the Service Suppliers. You further understand and agree that all communication in respect of this Agreement, including the Services and the Equipment, except for communication in terms of clause 8, shall be sent by the Service Suppliers or their duly appointed service providers.
- 1.4. The terms and conditions contained in this document form part of the Agreement between Cell C SP, the Equipment Supplier and you. Accordingly, please ensure that you understand and comply with all of them. In addition, you agree that you have read and understand the terms and conditions specific to your chosen product and/or package, as well as the terms and conditions relating to Usage Charges. If you do not understand any of the terms and conditions, you should ask a Cell C SP representative to explain them to you.
- 1.5. Important clauses which may limit Cell C SP's or the Equipment Supplier's responsibility or involve some risk for you are explained to you and appear in bold. You must pay special attention to these clauses.
- 1.6. Certain words that have special meaning have been defined. You can find the meaning of the words in clause 2 of this Agreement.

2. DEFINITIONS AND INTERPRETATION

- 2.1. In this Agreement, unless stated otherwise, the following terms shall have the following meanings:
 - 2.1.1. "**Activation**" means the activating of your SIM and/or Cell phone number to operate on the Cell C Network so that you can use the Services.
 - 2.1.2. "**the Agreement**" or "**this Agreement**" means these terms and conditions of agreement for the indivisible supply of the Services and Equipment for individual consumers, together with your accepted Application, the Tariff Plan and any product specific terms and conditions, the Cell C Website and Online Services Terms and Conditions (available on Cell C's website at (<http://www.cellc.co.za>)) all as amended from time to time.
 - 2.1.3. "**Application**" means your completed application form and/or your renewal application form (where applicable) titled "*Individual Subscriber Application*" for Services and/or Equipment, the terms of which are incorporated herein by reference.
 - 2.1.4. "**Cell C**" means Cell C Limited, and includes a reference to any successor, assignee, or person who may become a party in the place of this entity through a transfer of rights, exercise of rights or in a representative capacity or otherwise.
 - 2.1.5. "**Cell C Network**" means the electronic communications network in South Africa operated by Cell C.
 - 2.1.6. "**Cell C SP**" means Cell C Service Provider Company Proprietary Limited, and shall include its successor in title, assignee or any other entity entitled to enforce or exercise any of its rights in terms of this Agreement.
 - 2.1.7. "**Cell phone number**" or "**MSISDN number**" means the unique Mobile Station Integrated Services Digital Network number allocated to you in terms of this Agreement.

- 2.1.8. "**Charges**" means any applicable Connection Fee, Subscription Fee, Usage Charges, SIM fee, Equipment Fee, value-added services, risk transfer charge and any other charge relating to the provision of Services and Equipment to you in terms of this Agreement. The prices at the date you start this Agreement may not be the same for the whole period of this Agreement. If the prices change, the Service Suppliers will notify you and you can choose to continue with this Agreement or cancel this Agreement in accordance with its provisions.
- 2.1.9. "**Connection Fee**" means the once-off charge for your connection to the Cell C Network, as contemplated in the Application.
- 2.1.10. "**Contract Period**" means the minimum number of uninterrupted months you choose in the Application to use the Services and/or the Equipment for the first period or for any Renewal Period. If you have chosen a month-to-month agreement, this Agreement will run on a month-to-month basis until cancelled.
- 2.1.11. "**Electronic Communications Network Provider**" means any person or organisation licensed in terms of the Electronic Communications Act, 2005, as amended and any replacement legislation to provide electronic communications network services.
- 2.1.12. "**Electronic Communications Service Provider**" means a person or organisation licensed in terms of the Electronic Communications Act, 2005, as amended and any replacement legislation to provide electronic communications services.
- 2.1.13. "**Equipment**" means any tangible object supplied to you by the Equipment Supplier in terms of this Agreement, including, but not limited to, equipment that allows you to access the Cell C Network, including cell phones, routers, dongles, laptops, wearables, gaming devices, televisions and/or tablets in which your SIM may be installed. For the avoidance of any doubt, Equipment shall include any and all equipment supplied by the Equipment Supplier in terms of this Agreement, not all of which may necessarily require, or allow, access to the Cell C Network.
- 2.1.14. "**Equipment Fee**" means any applicable charges relating to the Equipment supplied to you by the Equipment Supplier in terms of this Agreement, which fees are set out in the Application.
- 2.1.15. "**Equipment Supplier**" means Comm Equipment Company Proprietary Limited and any of its subsidiaries, successors in title or assigns or any other entity entitled to enforce or exercise any of its rights in terms of this Agreement.
- 2.1.16. "**ICASA**" means the Independent Communications Authority of South Africa (or any successor body). This is a public body that regulates the way that Cell C and other Electronic Communications Service Providers and Electronic Communications Network Service Providers carry on business and provide services.
- 2.1.17. "**Inclusive Benefits**" means any voice minutes/SMSs/MMSS/data/USDD that is included as part of the subscription package selected by you in the Application and for which no extra charges are payable by you. These benefits are only for local use on local South African networks and may be subject to special product specific terms and conditions which may be provided to you by a Service Supplier representative.
- 2.1.18. "**International Roaming Charges**" means the charges you incur while you are using mobile services and/or your Equipment outside the borders of South Africa. In other words, your Equipment will be operating on the electronic communications network of an international roaming partner of Cell C and not the Cell C Network (also called "**international roaming**"). You will be liable for all calls and SMSs (both incoming and outgoing) as well as all data charges incurred while international roaming is activated, and all such charges will include the foreign network charge and a local roaming charge. For more information on International Roaming Charges and the applicable charges per foreign network, please visit <http://www.cellc.co.za> or ask in store.

- 2.1.19. **"Licence"** means any licence issued to Cell C in terms of the Electronic Communications Act, 2005, as amended and any replacement legislation.
- 2.1.20. **"Monthly Usage Limit"** means the monthly amount defined by the Service Suppliers that you can spend on Usage Charges on your SIM. This means that you will have a monthly limit to talk, SMS, or use data.
- 2.1.21. **"Out of Bundle Data Charges"** means the rate that you are charged for data upon depletion of your Inclusive Benefits or any ad hoc data bundle.
- 2.1.22. **"Port" or "Porting" or "Mobile Number Portability"** means the ability to transfer your Cell phone number from one Electronic Communications Network Provider or Electronic Communications Service Provider to another so that you become a subscriber of the other Electronic Communications Network Provider or Electronic Communications Service Provider but using the same Cell phone number.
- 2.1.23. **"Price List"** means the price list for the Services or Equipment. You may find more information about the Price List on Cell C's website (<http://www.cellc.co.za>) or contact the Service Suppliers for an explanation of what the prices are for Services and/or Equipment, which may change, on notice to you, over the period of this Agreement. You are entitled to cancel this Agreement if you are not happy with any changes to the price list, provided that you follow the cancellation terms and conditions set out in this Agreement.
- 2.1.24. **"Renewal Period"** means the period for which you have chosen to renew this Agreement.
- 2.1.25. **"RICA"** means the Regulation of Interception of Communications and Provision of Communication-Related Information Act, 2002, as amended and any replacement legislation.
- 2.1.26. **"Services"** means the electronic communications services including the SIM that are made available by the Service Suppliers or an international roaming partner of Cell C (if applicable), to you through the Cell C Network and/or the electronic communications network of an international roaming partner of Cell C, including any services, products, SIMs and promotions supplied by the Service Suppliers or an international roaming partner of Cell C, whether chargeable or non-chargeable. You will find more information about the Services and the terms and conditions for products and promotions on Cell C's website (<http://www.cellc.co.za>) or contact Cell C or the Service Suppliers for an explanation.
- 2.1.27. **"Service Suppliers"** means collectively, Cell C SP and the Equipment Supplier.
- 2.1.28. **"SIM"** is a Subscriber Identity Module card, which you receive with this Agreement or an eSIM which you may receive in the form of a voucher or other non-physical identifier for eSIM capable equipment. The SIM is linked to your Cell phone number to allow you to access the Cell C Network.
- 2.1.29. **"Subscription Fee"** means the monthly subscription charge payable by you in terms of this Agreement, as contemplated in the Application.
- 2.1.30. **"Tariff Plan"** means a schedule of rates/tariff costs chargeable by the Service Suppliers in respect of monthly Subscription Fees, monthly Inclusive Benefits and Usage Charges (for usage outside of Inclusive Benefits) published by Cell C from time to time; and will be charged separately from and/or in addition to the Equipment Fees and such other charges as contemplated in the Agreement. The Tariff Plans are available on Cell C's website at (<http://www.cellc.co.za>) or at any of Cell C stores.
- 2.1.31. **"Usage Charges"** means the amount you will need to pay in addition to the Subscription Fee for using or subscribing to Services provided either to you and/or any other person you have allowed to use Services, which includes all Out of Bundle Data Charges (if applicable) which include all charges for voice minutes/SMSs/MMSs/data/USDD outside of any Inclusive Benefits.
- 2.1.32. **"Working Day"** means a day other than a Saturday, a Sunday or a South African public holiday.
- 2.1.33. **"you/your"** means the customer(s) of Cell C SP and/or the Equipment Supplier on the Application.
- 2.2. In this Agreement, if a singular word is used it can include the plural, a word of any gender includes the other genders and if an "entity" is referred to it includes any entity that is seen in law as a separate legal person, such as a company, body corporate, a partnership, an association, and a trust, if it makes sense to do so.

3. WHEN DOES THIS AGREEMENT BEGIN?

- 3.1. This Agreement will begin and be binding on you and the Service Suppliers on the earlier to occur of:
- 3.1.1. the approval of your Application by the Service Suppliers; and
- 3.1.2. the Activation.
- 3.2. If you completed the Application for purposes of renewing your use of the Services and/or the Equipment, then the Renewal Period in respect of this Agreement will begin the day after the Contract Period expired, or otherwise directed by the Service Suppliers. The Renewal Period will only begin if the renewal is accepted by the Service Suppliers, from which date the terms and conditions shall be binding on you and the Service Suppliers.
- 3.3. Once this Agreement becomes effective in accordance with this clause 3, the terms and conditions contained herein shall become binding on you and you must comply with your obligations under this Agreement.

4. WHAT IS THE DURATION OF THIS AGREEMENT?

- 4.1. If this Agreement is not cancelled during the Contract Period or on expiry of the Contract Period and is not renewed, then this Agreement will run for the Contract Period, and after which time, it will continue on a month-to-month basis until this Agreement is cancelled.
- 4.2. **The Service Suppliers will notify you between 40 and 80 Working Days before your Contract Period expires, in terms of which you will be notified of:**
- 4.2.1. **the date when this Agreement will end;**
- 4.2.2. **any changes that will apply to this Agreement if the Agreement is renewed for a further period or will continue after the expiry of this Agreement. These changes will have to be accepted by you; and**
- 4.2.3. **your right to cancel or renew this Agreement. If you do not cancel or renew this Agreement, this Agreement will continue on a month-to-month basis until cancelled by you or the Service Suppliers.**
- 4.3. **You may at any time during the Contract Period or Renewal Period, cancel this Agreement, subject to clause 7.3, by giving the Service Suppliers 20 Working Days' written notice or notice in any other recorded form of your intention to cancel this Agreement. If this Agreement is running on a month-to-month basis, you will still be required to give the Service Suppliers 20 Working Days' written notice or notice in any other recorded form of your intention to cancel this Agreement.**

5. YOUR RESPONSIBILITIES UNDER THE AGREEMENT

- 5.1. **In return for the provision of Services and Equipment you agree to pay:**
- 5.1.1. the once-off SIM fee, the Connection Fee and an administration fee. If you are renewing this Agreement, you will not have to pay the Connection Fee or SIM fee again, but will need to pay a reasonable administration fee for the processing of your renewed contract, which fee shall be communicated with you in the Application process;
- 5.1.2. the monthly Equipment Fee (if applicable);
- 5.1.3. the monthly Subscription Fee, which is billed to you in advance. The Subscription Fee that you pay on your elected payment date is for the use of the Services and the Equipment (where applicable) for the next month. If this Agreement starts later than the first day of any month, then the first month's Subscription Fee and Inclusive Benefits will be pro-rated accordingly;
- 5.1.4. the total Usage Charges, which may include any charges for subscribing for and/or using Services including calls that you make, SMSs and MMSs you send and data that you use during that month, which will be billed at the end of the month in which you have used Services;
- 5.1.5. International Roaming Charges (if applicable, i.e. when international roaming is activated). Please note that Inclusive Benefits, ad hoc benefits and bundles, and the Monthly Usage Limit do not apply to international roaming and you remain liable for all calls made and received, SMSs and MMSs sent and received, as well as for all data used. There may be a delay of up to 3 (three) months before the International Roaming Charges are billed to you as the Service Suppliers may have to wait for the relevant foreign network to provide the necessary information;

- 5.1.6. charges related to early termination of this Agreement as outlined in clause 7.3 below; plus
- 5.1.7. VAT or other taxes and/or duty that must by law be added to any prices and charges contained in this Agreement and/or contained in any Tariff Plan and/or contained in the Price List.
- 5.2. **The Charges may be changed from time to time by means of publishing an amended Tariff Plan and/or Price List and by informing you of these changes. The Service Suppliers will notify you at least 20 Working Days before the Charges are affected and you will then have the option to cancel this Agreement in terms of the cancellation provisions.**
- 5.3. Payment in terms of this Agreement must be made to the account indicated by the Service Suppliers and the payment will discharge your liability to the Service Suppliers. Payment must be:
- 5.3.1. made on or before the due date set out on the invoice the Service Suppliers (or their nominee) issue to you;
- 5.3.2. made in full, being the total amount you owe as set out on the invoice issued to you and you may not deduct any amount which the Service Suppliers might owe you or which you claim is owed by the Service Suppliers; and
- 5.3.3. made by the payment method selected by you in the Application, or by any other means as may be agreed by the Service Suppliers in writing. To the extent that the payment method is an electronic payment and it fails for any reason, the Service Suppliers shall have the right to subsequently use any legal means available (including, without limitation, early debit order facilities) to recover any and all amounts owing, and/or you agree, understand, confirm and authorise the Service Suppliers to debit your account in such circumstances.
- 5.4. It is your responsibility to make sure that you have given your correct banking details. If your banking details change for any reason, you must notify the Service Suppliers of the change so that the Service Suppliers can update their systems. You understand and agree that the Service Suppliers cannot be held liable for any charges, damages or loss, if you do not notify the Service Suppliers of the change to your banking details within a reasonable period and that all such charges, damages or losses will be for your own account.
- 6. OTHER PAYMENT ISSUES**
- 6.1. The Service Suppliers have the option to require you to pay a reasonable refundable amount as a deposit if:
- 6.1.1. the Service Suppliers activate any SIM or any value-added services that are supplied to you; or
- 6.1.2. you default on any payment (the Service Suppliers will give you written notice to pay a deposit if you default on payment).
- 6.2. If the Service Suppliers require you to pay a deposit in terms of clause 6.1, you will be required to pay such deposit immediately before the Service Suppliers provide you with further Services and/or Equipment. The deposit amount will be calculated with reference to the Service Suppliers' credit assessment rules and procedures, and subject to clause 7.1.1.6, will be credited to you either during the Contract Period or refunded to you at the end of the Contract Period, provided that all amounts due have been paid by you in full.
- 6.3. If you do not pay your Charges on time, if you breach this Agreement or if you do not pay the requested reasonable deposit amount, then the Service Suppliers may suspend the Services until you have paid the deposit or any outstanding amounts owing and recover the deposit amount from you.
- 6.4. You have 30 calendar days from the date of each invoice that is issued to you to query any amounts on that invoice. If you do not raise a query within 30 calendar days, then you will be assumed to have accepted the invoice as correct.
- 6.5. Even if you do not receive your invoice/s for any month/s you must pay all outstanding Charges on the due date. Please notify the Service Suppliers as soon as you realise that you have not received your invoice so that the Service Suppliers may take steps to assist you with this and advise you of the amounts due, if any.
- 6.6. It is your responsibility to make sure that you have given your correct address details (whether electronic or physical). If your address details change for any reason, you must notify the Service Suppliers of the change so that the Service Suppliers can update their systems. You understand and agree that the Service Suppliers cannot be held liable for any charges, damages or loss, if you do not ask to change your address details within a reasonable period and that all such charges, damages or losses will be for your own account.

7. WHAT HAPPENS IF YOU DO NOT COMPLY WITH THIS AGREEMENT?

- 7.1. **What happens if you don't pay on time?**
- 7.1.1. **In addition to clauses 5 and 6, if you do not pay all amounts due on or before the due date for payment then, subject to clause 7.2, the Service Suppliers may deliver a notice to you and may:**
- 7.1.1.1. oblige you to perform all your obligations in terms of this Agreement;
- 7.1.1.2. charge interest on the overdue amount at the interest rate notified to you and calculated from the due date of payment to the date of actual payment to the Service Suppliers;
- 7.1.1.3. take action in terms of clause 7.2;
- 7.1.1.4. inform any credit bureau of your payment default. The Service Suppliers will give you 20 Working Days' written notice before informing a credit bureau of your payment default;
- 7.1.1.5. suspend the Services;
- 7.1.1.6. use the deposit amount paid by you in terms of clause 6.1 (if applicable) to recover any amounts owing for Services and/or Equipment;
- 7.1.1.7. blacklist the Equipment supplied to you in terms of clause 18 of this Agreement; and/or
- 7.1.1.8. hand over your account to external debt collection agencies or attorneys for collection.
- 7.1.2. The Service Suppliers will notify you before the suspension of the Services.
- 7.1.3. If you have an arrangement where a third party pays any Charges on your behalf and the third party has insufficient funds in their account to cover the amount owing in terms of this Agreement, the Service Suppliers have the right to debit your bank account for any shortfall and you hereby consent to and authorise the Service Suppliers accordingly. If neither you nor the aforesaid third party pays any outstanding amounts owing, the provisions of clauses 7.1 and 7.2 will apply.
- 7.1.4. The Service Suppliers are entitled to charge you an administration fee which you agree and consent to pay if any of your selected payment methods in the Application is returned unpaid for any reason or insufficient payment is received for whatever reason, unless it is due to the Service Suppliers' own fault. The administration fee will include the bank charges, bank administration fees and other charges and fees that the Service Suppliers will have to pay and/or incurred in collecting your unpaid fees and charges.
- 7.2. **When may the Service Suppliers cancel this Agreement?**
- 7.2.1. In the event that you have acted illegally, or you have acted in a manner which, in Cell C's or the Service Suppliers' sole discretion, constitutes racism, sexism, hate speech and/or verbal abuse or any other illegal activity or which supports any illegal activity, the Service Suppliers may exercise their right to cancel this Agreement, on notice to you;
- 7.2.2. **If you commit a breach of any of the terms and conditions of this Agreement and you remain in breach for a period of 20 Working Days after delivery of a written notice of breach to you requesting that you remedy the breach, and notwithstanding the other provisions of this Agreement, the Service Suppliers will be entitled to immediately (without prejudice to any other rights available to them at law):**
- 7.2.2.1. cancel this Agreement;
- 7.2.2.2. charge you for the use of Services up to the date of cancellation, and which may be outstanding at the date of cancellation;
- 7.2.2.3. charge you for the outstanding value of the Equipment supplied to you on the date of cancellation of the Agreement;
- 7.2.2.4. blacklist the Equipment in terms of clause 18; and/or
- 7.2.2.5. claim damages.
- 7.3. **What happens if you cancel this Agreement?**
- 7.3.1. **If you cancel this Agreement before the expiry of the Contract Period or the Renewal Period (as applicable), a cancellation fee for early contract cancellation will be applied. You will be liable and undertake to pay on demand to the Service Suppliers:**
- 7.3.1.1. **the full outstanding amount of the Equipment on the date of cancellation of this Agreement;**
- 7.3.1.2. **the outstanding Charges due under this Agreement which have been billed but not yet paid by you; and**
- 7.3.1.3. **a cancellation penalty in respect of any of the Services which would have continued for the remaining contract period of this**

Agreement, which equates to the product of 50% of the remainder of the Contract Period and the Subscription Fees.

8. WHEN MAY THE SERVICE SUPPLIERS CANCEL OR TRANSFER THIS AGREEMENT?

- 8.1. **You agree and understand that in the following instances, this Agreement may, on written notice to you, either be terminated, or transferred to another party nominated by the Service Suppliers:**
- 8.1.1. if Cell C or Cell C SP undergo a restructuring which requires this Agreement to be terminated or transferred, the Service Suppliers may elect to either terminate this Agreement on written notice to you, or transfer its rights and obligations under this Agreement to another Electronic Communications Network Provider or Electronic Communications Service Provider on written notice to you notwithstanding the other provisions of this Agreement;
- 8.1.2. if Cell C's Licence is cancelled, terminated or amended, or if the Cell C Network remains unavailable for a continuous period of 60 days, the Service Suppliers may elect to either terminate this Agreement on written notice to you, or transfer its rights and obligations under this Agreement to a third party on written notice to you;
- 8.1.3. if Cell C SP and/or Cell C is insolvent or are under business rescue in terms of the Companies Act, 71 of 2008, or if the Cell C SP or Cell C are unable to provide the Services in terms of the Agreement, the Equipment Supplier may elect, on written notice to you, to either terminate this Agreement or transfer the right to provide the Services under this Agreement to one or more third parties who are Electronic Communications Network Providers or Electronic Communications Service Providers.
- 8.2. You will not be charged a cancellation fee if this Agreement is cancelled for any of the reasons set out in clause 8.1, however, you shall remain liable for payment of your Equipment Fee.
- 8.3. You agree and understand that if either of the Service Suppliers elect to transfer their rights and obligations under the Agreement to one or more third parties then:
- 8.3.1. this Agreement shall not come to an end, unless you request to cancel this Agreement in terms of the cancellation provisions, and you shall remain liable and must continue to pay all amounts in terms of this Agreement, including Charges and Equipment Fee; and
- 8.3.2. in order to facilitate the uninterrupted transfer, you agree and request the Service Suppliers, as far as the law allows, to Port your Cell phone number to such other Electronic Communications Network Provider or Electronic Communications Service Provider, unless you request to cancel this Agreement in terms of the cancellation provisions.

9. SUSPENSION OF SERVICES AND DISCONNECTION OF EQUIPMENT

- 9.1. **Services may be suspended by disconnecting the Equipment and/or your SIM from the Cell C Network, if:**
- 9.1.1. the Cell C Network fails, or becomes temporarily unavailable due to any modification and/or upgrade and/or maintenance and/or circumstance beyond the Service Suppliers' control;
- 9.1.2. you fail to comply with any of the terms and conditions of this Agreement;
- 9.1.3. you at any time exceed any credit limit or Monthly Usage Limit imposed by the Service Suppliers; or
- 9.1.4. you use Services or Equipment unlawfully, or if you unlawfully tamper with or modify your Equipment or your SIM.
- 9.2. In the event that the Service Suppliers become aware of any suspension, termination or temporary unavailability of the Cell C Network, or any of Services, or any unavoidable delay in the performance of Services, the Service Suppliers will make reasonable attempts to give you timely notice of such suspension, termination, temporary unavailability or unavoidable delay.
- 9.3. You will continue to be liable for payment of your Equipment Fee and Subscription Fee during any suspension period.
- 9.4. The Service Suppliers are entitled to charge you a reasonable administration fee if Services are suspended and have to be reconnected due to the reasons set out in clauses 9.1.1 to 9.1.4 above.
- 9.5. You will still be able to call Cell C's emergency response centre free of charge in the event of an emergency.

10. SERVICES

- 10.1. The Service Suppliers will take all reasonable steps within their control to make Services available to you at all times in line with the terms and conditions of this Agreement.
- 10.2. The Services are only available within the range of base stations that make up the Cell C Network and the signal may vary according to where you are at the time.
- 10.3. Although the Service Suppliers take all reasonable measures to ensure that Services are offered to you on a consistent and continuous basis, the Service Suppliers cannot always guarantee a continuous and/or fault-free service.
- 10.4. The quality and availability of Services may sometimes be affected by factors such as:
- 10.4.1. local physical obstructions;
- 10.4.2. bad weather;
- 10.4.3. other causes of radio interference;
- 10.4.4. the features or functionality of your particular Equipment;
- 10.4.5. damaged Equipment or SIM;
- 10.4.6. unavailability of electrical supply, such as load shedding; or
- 10.4.7. the number of people trying to use the Cell C Network at the same time, for instance in a national emergency, or if there are faults in other electronic communications networks to which the Cell C Network is connected.
- 10.5. You understand and agree that the SIM and the Cell phone number allocated to you may (if it becomes necessary) be changed by Cell C or the Service Suppliers.

11. SIM AND EQUIPMENT

- 11.1. You are responsible for the safekeeping of your Equipment and your SIM and you agree to notify the Service Suppliers immediately if your Equipment and/or SIM have been lost or stolen. You accept all risks associated with your Equipment and SIM (from the date of delivery).
- 11.2. Where possible, the Service Suppliers guarantee that you shall have undisturbed possession of the SIM for the duration of this Agreement, subject to such issues as may be outside the reasonable control of the Service Suppliers. Ownership of the SIM will pass to you on expiry or termination of this Agreement provided you have complied with this Agreement and paid all amounts due in terms of this Agreement. This requirement may be waived in writing by the Service Suppliers.
- 11.3. The Equipment Supplier remains the owner of any Equipment supplied to you until this Agreement comes to an end and you have paid for the Equipment in full. Where possible the Equipment Supplier guarantees that you shall have undisturbed possession of the Equipment for the duration of this Agreement provided you have complied with this Agreement. Ownership of the Equipment will pass to you on expiry or termination only if you have paid all amounts due in terms of the Agreement. This requirement may be waived in writing by the Equipment Supplier.
- 11.4. Any Equipment supplied to you that does not function properly or is defective or faulty because of its design, material or workmanship may be covered by a warranty provided by the manufacturer or relevant legislation for the period stated by the manufacturer or legislation.
- 11.5. The Service Suppliers do not warrant any Equipment, SIMs or accessory which has been damaged due to water (including dropping Equipment or SIMs in water, damage to Equipment or SIMs due to perspiration and humidity), disassembled, physically altered, permanently installed, affixed, attached, joined or added to, blended or combined with, or embedded within, other Equipment or property, and as may be further set out in the Equipment Supplier's repairs, replacement and refunds policies.
- 11.6. If your Equipment is faulty, you may return the Equipment to the Service Suppliers and the Service Suppliers comply with the repairs, replacement and refunds policies of the Equipment Supplier, subject to the manufacturer specifications and requirements.
- 11.7. You agree and understand that you may forfeit and lose any applicable warranty if you use another SIM (other than the SIM issued by the Service Suppliers in terms of this Agreement) in your Equipment.
- 11.8. You understand and agree that the Agreement will not come to an end if your Equipment, and/or the SIM issued to you are lost, stolen or damaged or destroyed. You remain liable and must continue to pay all Charges and the Equipment Fee in terms of the Agreement.

11.9. You may not use your SIM for any machine-to-machine or machine-related services, unless otherwise agreed in writing with the Service Suppliers.

12. INCLUSIVE BENEFITS

12.1. Where you do not use all the Inclusive Benefits within the billing period in which they originally accrued, then those unused Inclusive Benefits may be carried over for a period as may be set out in the applicable Tariff Plan or a reasonable period, to be advised by the Service Suppliers from time to time (the "Carry Over Period").

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

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

13. OUT OF BUNDLE DATA CHARGES

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

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

14. DISCOUNTS AND PROMOTIONS

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

15. LIMITATION OF LIABILITY

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

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

15.1.2. **any damage or fault to any Equipment;**

15.1.3. **any change in your Cell phone number if Cell C is obliged to do so in terms of law, or if you or your authorised representative requests to change your Cell phone number; or**

15.1.4. **the Porting of the Cell phone number.**

15.2. **For the avoidance of doubt, the Service Suppliers and Cell C will not be obliged to reimburse you for any of your losses incurred as a result of any service interruptions and/or unavailability contemplated in clause 15.1.**

16. INTELLECTUAL PROPERTY RIGHTS

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

17. USE OF YOUR PERSONAL INFORMATION AND DIRECT MARKETING

17.1. By entering into this Agreement, you understand and acknowledge that Cell C, the Service Suppliers, their affiliate companies, their service providers, suppliers and partners ("Group") are required to comply with the provisions of the Protection of Personal Information Act of 2013 ("POPIA") to, amongst other things, ensure the privacy and

confidentiality of your Personal Information (as such term is defined in the POPIA).

17.2. For purposes of this, you confirm, agree, understand, acknowledge that by entering into this Agreement, –

17.2.1. you disclose and provide your Personal Information to the Group voluntarily and consent and authorise the Group to collect, use, process, share and/or transfer your Personal Information in accordance with Cell C's Privacy Policy accessible by you on Cell C's website (<https://www.cellc.co.za>) ("Privacy Policy");

17.2.2. you agree to immediately inform the Group in writing if there is any change of whatsoever nature in any of your personal information, including your physical address, previously supplied to the Group; and

17.2.3. you agree and consent to be bound by the terms and conditions of the Privacy Policy, which you have read, understood and agreed to as part of your Application.

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

17.3.1. the Group, and/or Electronic Communications Service Providers, but only to the extent necessary and in order to provide Services and Equipment to you;

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

17.3.3. African Bank Limited. It is recorded that, from time to time, the Equipment Supplier may cede, as security in respect of financing, transactions entered into by the Equipment Supplier, some or all of its rights under this Agreement to African Bank Limited ("African Bank"). In order to permit African Bank to exercise its rights under such security cession(s), it is necessary for the Equipment Supplier to provide Personal Information about you (including your full name, identity number, physical address and contact details, including mobile number, and amounts owing and/or paid by you under this Agreement from time to time) to African Bank. You agree and consent to the provision of such Personal Information to African Bank, in which case you consent and authorise African Bank to use and process your Personal Information in accordance with African Bank's Privacy Policy accessible by you on African Bank's website (<https://www.africanbank.co.za>). African Bank may also approach you directly to request your consent to offer you specific benefits about African Bank products and services; and

17.3.4. attorneys and/or debt collection agencies if you breach the Agreement.

17.4. As and when necessary, you agree and consent to be contacted by Cell C in respect of their direct marketing campaigns in relation to similar and/or related products and/or services, which contacts will be in accordance with the terms and conditions of the direct marketing provisions of the Consumer Protection Act, 68 of 2008 ("CPA") as amended and the CPA regulations and POPIA, including the provisions relating to the direct marketing registry.

17.5. **You can ask the Service Suppliers to stop marketing to you (opt-out) at any time. You may register a block on marketing from the Group.**

17.6. **You are entitled to withdraw your consent for using your personal information under clauses 17.2, 17.3.3 and 17.4 above on written notice or notice in any other recorded form to Cell C. In the event you decide to withdraw your consent the Group will not be able to use your information for the purposes listed under clauses 17.2, 17.3.3 and 17.4 to the extent that you withdraw your consent from the date your withdrawal notice is received.**

18. BLACKLISTING

18.1. If your SIM and/or Equipment are lost or stolen during the Contract Period or any Renewal Period, then you must notify the Service Suppliers immediately so that your interests can be protected. In this regard, your Equipment may be blacklisted from further use and/or your Equipment and SIM blocked from further use, and you hereby consent to and authorise the Service Suppliers to block your SIM and/or blacklist your Equipment. You will remain liable for all Charges until you have asked the Service Suppliers to block further use of your SIM and/or Equipment. You will not be liable for any Usage Charges incurred by any unauthorised person after you have requested the Service Suppliers to block your SIM and/or Equipment, but you will

continue to be liable for the Equipment Fee and Subscription Fee for the entire Contract Period and Renewal Period (as applicable).

- 18.2. The Service Suppliers agree to blacklist the use of your SIM and/or Equipment on the Cell C Network and to notify the other Electronic Communications Network Providers of such blacklisting, only on the basis that you agree to indemnify Cell C and the Service Suppliers in respect of any liability, claim, costs or expenses whatsoever which may be made against Cell C and the Service Suppliers by you or by any other person or organisation as a result of such blacklisting.
- 18.3. For the avoidance of doubt, the provisions of clause 18.2 mean that if you ask Cell C and/or the Service Suppliers to block or blacklist your SIM or Equipment you cannot claim any loss from Cell C and/or the Service Suppliers and you must pay Cell C and the Service Suppliers any amount they have to pay anyone else as a result of any such losses.

19. MOBILE NUMBER PORTABILITY (IF APPLICABLE)

- 19.1. If you have Ported your Cell phone Number to the Service Suppliers or Cell C, you agree and understand that any services, any third party services and any service credits provided to you by the Electronic Communications Network Provider or Electronic Communications Service Provider that you have Ported from are not transferable to the Service Suppliers or Cell C and that you will in turn only have access to the Services as provided for and defined in this Agreement.
- 19.1. You agree and understand that you have to pay all outstanding amounts due to the other Electronic Communications Network Provider or Electronic Communications Service Provider from whose service you have Ported. Cell C and the Service Suppliers are not responsible for paying any amounts to the other Electronic Communications Network Provider or Electronic Communications Service Provider.
- 19.2. You agree and understand that you remain liable to pay all amounts due in the event that you want to Port your Cell phone number from the Service Suppliers or Cell C to another Electronic Communications Network Provider or Electronic Communications Service Provider. In the event that you Port your Cell phone number the provisions of the Number Portability Regulations will apply.

20. RICA

- 20.1. RICA is applicable to Services and the Equipment and to you in terms of this Agreement and:
- 20.1.1. in terms of RICA, the Service Suppliers are required to be satisfied as to your identity which includes obtaining a copy of your identity document (or passport) and proof of your physical address from you;
- 20.1.2. the Service Suppliers or Cell C will not activate your SIM until all your details as required by RICA have been properly registered;
- 20.1.3. the Service Suppliers or Cell C may be required to disclose the information relating to you in accordance with RICA, to a law enforcement officer on receipt of a directive issued in terms of RICA;
- 20.1.4. you must immediately report any loss, theft or destruction of your SIM and/or Equipment to the police, otherwise you will be committing an offence and will be liable to a fine or imprisonment; and
- 20.1.5. if you transfer your SIM to another person (other than a family member or a dependant of yours) then you must register the details of that person with the Service Suppliers under RICA or you will be liable to a fine or imprisonment.

21. MONTHLY USAGE LIMIT

- 21.1. You understand and agree that the Service Suppliers may, of their own choice and discretion, implement a Monthly Usage Limit, without notice to you.
- 21.2. Where the Service Suppliers implement a Monthly Usage Limit (either at your request or by the Service Suppliers' choice), then the chosen Monthly Usage Limit will be calculated in accordance with the Service Suppliers' billing cycle.
- 21.3. When you reach 70% of the Monthly Usage Limit, the Service Suppliers will make reasonable efforts to send you an SMS advising that your Monthly Usage Limit has almost been reached.
- 21.4. If the Monthly Usage Limit is reached then the Service Suppliers are entitled to use all reasonable efforts to prevent you from making further use of Services, except for any Inclusive Benefits and ad hoc bundles not exhausted, calls to emergency services numbers namely 112, and customer care on 135 / and for accessing your voice mailbox on 132.
- 21.5. The Monthly Usage Limit cannot be applied when you are using your Equipment outside the borders of South Africa (also called

"international roaming") as the Service Suppliers may not receive information relating to International Roaming Charges in a timely manner during the period that international roaming is activated. You may reach your Monthly Usage Limit before the Service Suppliers has had a reasonable opportunity to either notify you that you are nearing your Monthly Usage Limit or to impose the limit to prevent you from incurring additional International Roaming Charges. International Roaming Charges, including data charges, can lead to extremely high charges in a short period. You should not use data while you are roaming outside the borders of South Africa unless you are aware of the necessary data charges. You will remain liable for all International Roaming Charges, which include charges for all calls made and received, SMS sent and received, as well as all data used.

- 21.6. You accept that the Service Suppliers cannot guarantee to implement the Monthly Usage Limit and you remain responsible to pay for all Usage Charges spent on your SIM over and above the Monthly Usage Limit regardless of whether or not the Service Suppliers implement the Monthly Usage Limit.

22. GENERAL

22.1. Notices

- 22.1.1. All legal notices given in terms of the Agreement will be in writing and all notices may be sent to the address(es) specified in the Application. Any change in your address will only be effective if and when the Service Suppliers receives written notification of your change of address.
- 22.1.2. The Service Suppliers will deliver certain notices to you by SMS on its own behalf and on behalf of the Equipment Supplier.
- 22.1.3. Notices that do not negatively affect you, will be delivered and will be considered as received:
- 22.1.3.1. if delivery is by hand, then on the date of delivery;
- 22.1.3.2. if delivery is by fax, then within 24 hours of transmission of the fax;
- 22.1.3.3. if delivery is by email, then when the message is capable of being retrieved and processed by the addressee from the information system, or server used by the addressee for the purposes of receiving email messages as stated in section 23(b) of the Electronic Communications and Transactions Act, 2002.
- 22.1.4. Any legal notices given by the Service Suppliers which is of a particular interest to you will be deemed to have reached you within 10 days of posting, only if it is sent by registered mail from an address within South Africa to your last known address.
- 22.1.5. Reference to written notice being provided to you shall include notice sent through electronic communication, including via SMS.
- 22.2. **Transfer of rights and obligations**
- 22.2.1. **You must not do any of the following at any time without the Service Suppliers' permission:**
- 22.2.1.1. **transfer/cede any of your rights under this Agreement to any other entity or person; or**
- 22.2.1.2. **transfer/delegate or hand-over any of your obligations or responsibilities under the Agreement to any other entity or person.**
- 22.2.2. To the extent that this is allowed by law, you agree that the Service Suppliers can at any time do any of the following without notice to you or your permission:
- 22.2.2.1. transfer any rights under this Agreement, to any one or more persons or entities; and/or
- 22.2.2.2. transfer/delegate or hand-over any obligations or responsibilities under this Agreement to any one or more persons or entities.

22.3. Extensions of time and indulgences

- 22.3.1. If the Service Suppliers give you any leeway, or extension of time or other indulgence, it will not prevent the Service Suppliers from enforcing any rights in the future, without notice, and requiring your strict and timely compliance with each term and condition of this Agreement.

22.4. Unenforceable provisions

- 22.4.1. If any term of this Agreement is unenforceable, illegal, void, or contrary to public policy then it will be deleted from this Agreement. The remaining provisions of this Agreement will however remain binding and in full force.

22.5. Amendments

- 22.5.1. The Service Suppliers are entitled on written notice to you (which notice may be sent through electronic communication, including via SMS), to change the terms and conditions of this Agreement if necessary because of any new and/or amended law, tax, regulation and/or any change in the terms and conditions of Cell's Licence and/or any change in the Tariff Plan or Services.
- 22.5.2. The Service Suppliers are further entitled on written notice to you (which notice may be sent via SMS), to change the terms and conditions of any Services or conditions of supply of the Equipment. If the Service Suppliers change the terms and conditions, you will be notified of such amended terms and conditions and you will be able to view the amended terms and conditions of this Agreement, Services and supply of Equipment on Cell C's website <http://www.cellc.co.za>. **If you do not agree to the amendments, you may cancel this Agreement subject to the cancellation provisions of this Agreement by giving 20 Working Days' written notice of cancellation in any recorded form, but the notice must be given within 5 Working Days of the date you get notice of any change.**
- 22.6. **Whole agreement and General**
- 22.6.1. Except for the Service Suppliers right to change this Agreement described in clause 22.1.4 above, this is the whole agreement between you and the Service Suppliers and no amendment, deletion or addition will be valid unless it is stipulated in writing and agreed to by all parties.
- 22.6.2. You understand that this Agreement constitutes a *stipulatio alteri* (i.e. a contract for the benefit of third parties) in favour of the Group and African Bank, and each of such persons shall, to the extent that they are not a party to this Agreement, be entitled to accept the benefits stipulated on their behalf at any time during the course of this Agreement, on written notice to the Service Suppliers and you.
- 22.7. **Legal Costs**
- 22.7.1. To the extent allowed by law, if the Service Suppliers elects to take any legal action arising from breach of any terms and conditions of this Agreement where Cell C SP has to hire the services of an attorney and/or advocate and/or tracing agent then you will be liable in respect of all relevant legal cost(s) and/or expense(s) incurred on the appropriate scale.
- 22.8. **Warranty and Indemnity**
- 22.8.1. **You warrant that you have the necessary rights to enter into this Agreement and you indemnify the Service Suppliers against any and all liabilities, claims, damages or losses whatsoever that a third party might have arising out of this Agreement if you do not have the necessary rights. As such, if you do not have authority to sign this Agreement you will be personally liable for any loss that results from your lack of authority.**
- 22.9. **Evidence**
- 22.9.1. A computerised account or a certificate signed by a manager of any of the Service Suppliers (whose authority the Service Suppliers need not prove) will be proof on the face of it of any amount due by you in terms of this Agreement. You are entitled to challenge the correctness of any such certificate if you want to do so.
- 22.10. **Resolving disputes and Governing Law**
- 22.10.1. You agree and understand that any dispute arising from this Agreement shall be referred to the Service Suppliers.
- 22.10.2. Any dispute relating to this Agreement can be resolved in accordance with the Service Suppliers' Customer Code of Conduct, a copy of which is available on Cell C's website being <http://www.cellc.co.za>. You may also request such a copy from any of the Cell C stores.
- 22.10.3. **Despite the above, you can refer any unresolved dispute between you and the Service Suppliers to the National Consumer Commission established under the Consumer Protection Act, 2008, or to ICASA, or the Credit Ombud established in terms of the National Credit Act, 2005.**
- 22.10.4. Nothing in this clause prevents you from taking legal action against the Service Suppliers.
- 22.10.5. This Agreement is governed by the laws of South Africa.