

**TERMS AND CONDITIONS OF AGREEMENT  
FOR THE SUPPLY OF THE SERVICES FOR INDIVIDUAL CONSUMERS**

**1. WHAT IS THIS AGREEMENT FOR?**

- 1.1. This Agreement is for the supply of the Services to you, for the Contract Period.
- 1.2. The Services will be provided to you by Cell C SP.
- 1.3. You understand and agree that Cell C SP shall be responsible for enforcing the Agreement. All payments, queries, concerns, disputes and communication in respect of the Agreement, including those in relation to the Services, shall be made and/or referred by you to Cell C SP.
- 1.4. The terms and conditions contained in this document, as well as your specific product or package terms and conditions, form part of the Agreement between Cell C SP and you, so please ensure that you understand and comply with all of them. You must also make sure that you read and understand the terms and conditions specific to your chosen product or package. **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. Certain words that have special meaning have been defined. You can find the meaning of the words in in clause 2 of these Terms and Conditions.

**2. IMPORTANT PROVISIONS**

To the extent that the Consumer Protection Act, No 68 of 2008 ("CPA") applies, we have a duty to point out certain important provisions in these Terms of Use to you. The clauses that contain these important provisions and reasons why they are important are set out below. **It is very important that you read all of these clauses carefully and not just what we say below.**

- 2.1. **Limitations of risk, legal responsibility and liability.** Clauses 6, 7, 8, 9, 10, 11, 12, 13, 14, 16, 17, 18, 20, and 21.8 below are important because they limit and exclude obligations, liabilities and legal responsibilities that we and other persons or entities may otherwise have to you. As a result of these clauses, your rights and remedies against us and these other persons and entities are limited and/or excluded. These sections also limit and exclude your right to recover or make claims for losses, damages, liability or harm that you or others may suffer.
- 2.2. **Assumptions of risk, legal responsibilities and liability by you.** Clauses 6, 7, 8, 10, 11, 12, 14, 16, 17, 18, 20 and 21.8 below are important because you take on risk, legal responsibilities and liability. As a result of these clauses, you may also be responsible for claims and other amounts. You will also be responsible for, and you accept, various risks, damages, harm and injury, which may be suffered by you and others for what is stated in these clauses. We will also be able to terminate this Agreement with you as a result of these clauses.
- 2.3. **Acknowledgements of fact by you.** Clauses 1.3, 6, 8, 9, 10, 11, 18 and 21.8 are important because they each contain statements, which are acknowledgements of fact by you. You will not be able to deny at a later stage that these statements are true. We may take action against you and may have claims against you as a result of these statements.
- 2.4. **Indemnities by you.** Clauses 17.2 and 21.8 below require you to indemnify (hold harmless) Cell C, Cell C SP and other persons or entities as a result of the events set out in clauses 17.2 and 21.8. You are also required to indemnify Cell C, Cell C SP, any third party(ies) who may provide you with Equipment and other persons and entities against claims for loss, damages and harm that may be made by any person or entity as a result of the events set out in clauses 17.2 and 21.8. This places various risks, liabilities, obligations and legal responsibilities on you. You will be responsible and liable for the payment of the value of the claims, loss, damages and harm that may be suffered or claimed.

**3. DEFINITIONS AND INTERPRETATION**

- 3.1. In this Agreement, unless stated otherwise, the following terms shall have the following meanings:
  - 3.1.1. **"Acceptable Use Policy"** means any policy stipulating constraints and practices that you must agree to in order to make use of the Services put in place by Cell C SP, which can be found on Cell C's website and may be amended from time to time.
  - 3.1.2. **"Agreement"** means the following items together (i) your Application, after it has been accepted by Cell C SP; (ii) these Terms and Conditions of Agreement for the Supply of Services; (iii) the Tariff Plan; (iv) the additional terms and conditions that apply to the Service, such as specific product terms and conditions, promotions or other offers that Cell C SP may make from time to time, which you take up as part of the Services; and (v) any addition or amendment to any of these items which Cell C SP may make from time to time as allowed in these Terms and Conditions. These Terms and Conditions are available on Cell C's website (<http://www.cellc.co.za>) or contact Cell C or Cell C SP for an explanation. **In the event that there is any conflict or inconsistency between these Terms and Conditions and any other document comprising the Agreement, these Terms and Conditions will prevail to the extent of that conflict or inconsistency.**
  - 3.1.3. **"Application"** means your signed application form for Services, including its annexures.
  - 3.1.4. **"Cell C"** means Cell C Limited (with company registration number 1999/007722/06), and includes a reference to any person who may become a party in the place of this entity through a transfer of rights or in a representative capacity.

in South Africa operated by Cell C, or operated by other parties and used by Cell C or Cell C SP, to provide the Services to you.

- 3.1.6. **"Cell C SP"** means Cell C Service Provider Company Proprietary Limited (with company registration number 2001/008017/07), and includes a reference to any person who may become a party in the place of this entity through a transfer of rights or in a representative capacity.
- 3.1.7. **"Cellphone number"** means the unique Mobile Station Integrated Services Digital Network number allocated to you in terms of this Agreement, where the Services you use include mobile cellular services.
- 3.1.8. **"Charges"** means any applicable Connection fee, Subscription Fee, International Roaming Charges, Usage Charges, SIM Card fee, risk transfer charge and any other charge relating to the provision of Services to you in terms of the Agreement or Equipment provided to you in terms of the Equipment Agreement, as set out on the Cell C website (<http://www.cellc.co.za>), in store, in the franchise booklet or any other agreement concluded between you and Cell C SP. You may also contact Cell C SP for an explanation of the Charges. The Charges at the date you start your Agreement may not be the same for the whole period of the Agreement. **If the Charges change, Cell C SP will let you know and you can choose whether you want to carry on with the Agreement or cancel the Agreement, provided you follow the cancellation terms and conditions of the Agreement.**
- 3.1.9. **"Connection Fee"** means the once-off charge for your connection to the Cell C Network.
- 3.1.10. **"Contract Period"** means a period that will continue on a month-to-month basis until cancelled in accordance with these Terms and Conditions.
- 3.1.11. **"Electronic Communications Network Provider"** means any person or organisation licensed in terms of the Electronic Communications Act, 2005, to provide electronic communications network services.
- 3.1.12. **"Electronic Communications Service Provider"** means a person or organisation licensed in terms of the Electronic Communications Act, 2005, to provide electronic communications services.
- 3.1.13. **"Equipment"** means any tangible object supplied to you in terms of the Equipment Agreement that, among other things, allows you to access the Cell C Network or to access, use or receive the Services, including, without limitation, customer premises equipment, optical network terminals, software, cellphones, routers, dongles, laptops, or tablets.
- 3.1.14. **"Equipment Agreement"** means the agreement (if any) concluded between you and Cell C, Cell C SP and/or a third party for the provision of Equipment for use on, among other things, the Cell C Network;
- 3.1.15. **"ICASA"** means the Independent Communications Authority of South Africa. 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.
- 3.1.16. **"Inclusive Benefits"** means any voice minutes/SMSs/MMSs/data or other benefits that are included as part of the Services (which may change from time to time) and for which no extra charges are owed by you. These benefits are only for local use on local South African networks. **"International Roaming Charges"** means the charges you incur while you are using mobile services outside the borders of South Africa. In other words, you will be receiving certain services 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 [www.cellc.co.za](http://www.cellc.co.za) or ask in store.
- 3.1.17. **"Installation fee"** means the charge for the physical installation of, among other things, the fibre line and customer premises equipment to your premises, and includes all physical work and materials required.
- 3.1.18. **"Licence"** means any licence issued to Cell C or one of its service providers in terms of the Electronic Communications Act, 2005, or any other applicable legislation.
- 3.1.19. **"Monthly Usage Limit"** means the monthly amount defined by Cell C SP, whether in its sole discretion or in accordance with your request, that you can spend on Usage Charges on your SIM Card. This means that you will have a monthly limit to talk, SMS, or use data.
- 3.1.20. **"Port" or "Porting" or "Mobile Number Portability"** means, to the extent that the Services are mobile cellular services, the ability to transfer your Cellphone 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

3.1.5. **"Cell C Network"** means the electronic communications networks

Electronic Communications Service Provider, but using the same Cellphone number.

- 3.1.21 **"Renewal Period"** means the period for which you have chosen to renew the Agreement. Renewal in a store or via the Cell C call centre may incur an additional renewal administration fee.
- 3.1.22 **"RICA"** means the Regulation of Interception of Communications and Provision of Communication-Related Information Act, 2002, as amended from time to time.
- 3.1.23 **"Services"** means the services you have selected on your Application. You will find more information about the Services and the terms and conditions for specific products and promotions on Cell C's website (<http://www.cellc.co.za>) or contact Cell C or Cell C SP for an explanation.
- 3.1.24 **"SIM Card"** is a Subscriber Identity Module card, which you receive in terms of the Agreement in order to use the mobile cellular services. The SIM Card is linked to your Cellphone number to allow you to access the Cell C Network.
- 3.1.25 **"Subscription Fee"** means the monthly subscription charge payable by you in terms of the Agreement in order to receive the Services.
- 3.1.26 **"Tariff Plan"** means the various tariff (cost) plans published by Cell C setting out:
  - (a) the charges for Services;
  - (b) any Inclusive Benefits; and/ or
  - (c) any other service, whether you are charged for those other services or whether those service are provided as part of the Subscription Fee incorporated into the Tariff Plan. (The Tariff Plans are available on Cell C's website at (<http://www.cellc.co.za>) or at any of the Cell C stores).
- 3.1.27 **"Terms and Conditions"** means this document called "Terms and Conditions of Agreement for the Supply of Services for Individual Consumers".
- 3.1.28 **"Usage Charges"** means the amount you will need to pay in addition to the Subscription Fee for using Services provided either to you and/or any other person you have allowed to use Services.
- 3.1.29 **"Working Day"** means a day other than a Saturday, a Sunday or a South African public holiday.
- 3.1.30 **"you"** and **"your"** refers to the person whose particulars appear on the Application, plus your lawful successor or authorised representative (if applicable).

3.2. In the 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 make sense to do so.

#### 4. WHEN DOES THIS AGREEMENT BEGIN?

- 4.1. By making your Application, you offer to enter into an agreement with Cell C for the supply of Services.
- 4.2. This Agreement will begin and be binding on you and Cell C on the earlier to occur of:
  - 4.2.1. the acceptance of your Application for the Services; and/or
  - 4.2.2. you being granted access to the Cell C Network so you may use Services.
- 4.3. Once you sign the Application you will be bound by the terms of this Agreement and you must comply with your obligations under this Agreement.

#### 5. WHAT IS THE PERIOD OF THIS AGREEMENT?

- 5.1. This Agreement will continue on an indefinite month-to-month basis until the Agreement is cancelled in accordance with the terms of this Agreement.
- 5.2. Cell C SP may notify you on not less than 30 calendar days notice about :
  - 5.2.1. the date when the Agreement will end; and/or
  - 5.2.2. any changes that will apply to the Agreement, which will have to be accepted by you.
- 5.3. **You may, at any time during the Contract Period, cancel this Agreement, subject to clause 7.3, by giving Cell C SP 30 calendar days' written notice or notice in any other recorded form of your intention to cancel this Agreement. In the event of it being fibre services, one calendar month notice is required.**
- 5.4. **You may, at any time during the Contract Period, on no less than 30 calendar days' written notice to Cell C SP, elect to migrate from your current Cell C product (as set out in the applicable Tariff Plan) to another product provided by Cell C (as set out in the applicable Tariff Plan). Cell C SP may approve or decline such a migration in its sole discretion. Cell C SP may also elect to charge an administration fee for this migration, such fee will be disclosed to you prior to migration.**

#### 6. YOUR RESPONSIBILITIES UNDER THE AGREEMENT

- 6.1. In return for the provision of Services you agree to pay the Charges, including:
  - 6.1.1. the once-off SIM Card fee, the Connection Fee and an administration fee, on or before the date the Agreement

begins. These fees will only be payable by you where indicated in your Application Form;

- 6.1.2. the monthly Subscription Fee, which is billed to you in advance. The Subscription Fee that you pay at the end of a month is for the next month's services. If the Agreement starts later than the first day of any month then the first month's Subscription Fee and Inclusive Benefits will be pro-rated;
- 6.1.3. the total Usage Charges, which may include any charges for 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;
- 6.1.4. International Roaming Charges (if applicable, i.e. when the Services include mobile cellular services and international roaming is activated). Please note that Inclusive Benefits and the Monthly Usage Limit do not apply to international roaming and you remain liable for all calls made and received, SMS 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 Cell C SP may have to wait for the relevant foreign network to provide the necessary information;
- 6.1.5. the charges for any additional services which you used, including any applicable postage related charges; plus
- 6.1.6. VAT or other taxes and/or duty that must by law be added to any prices and Charges contained in the Agreement and/or contained in any Tariff Plan.
- 6.2. The Charges may be changed from time to time. Cell C SP will notify you at least 20 Working Days before the Charges are changed and you will then have the option to cancel the Agreement in terms of the cancellation provisions.
- 6.3. Payment in terms of the Agreement must be made to the account elected by Cell C SP and the payment will discharge your liability to Cell C SP. Payment must be:
  - 6.3.1. made on or before the due date set out on the invoice Cell C SP issued to you;
  - 6.3.2. the total amount you owe as set out on the invoice issued to you and you may not deduct any amount which Cell C SP might owe you or which you claim is owed by Cell C SP;
  - 6.3.3. made by direct debit order against your valid bank account or your credit card account or against the account of another named person (a "Third Party") who has given consent to pay on the Application, or by any other payment method determined by Cell C in its sole and absolute discretion. If the debit order fails for any reason, Cell C SP shall have the right to subsequently use any legal means available (including early debit order facilities) to recover any and all amounts owing, and you agree and understand that Cell C SP shall have the right to change your selected debit order date on notice to you.
  - 6.3.4. 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 Cell C SP of the change so that Cell C SP can update its systems. You understand and agree that Cell C SP cannot be held liable for any charges, damages or loss, if you do not notify Cell C SP 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. [This means that you must accept any loss that results from you failing to tell Cell C SP of a change of your bank details.]
- 6.4. Other payment issues
  - 6.4.1. Cell C SP has the option to require you to pay a reasonable refundable amount as a depositif:
    - 6.4.1.1. Cell C SP activates any SIM Card or any value added services that are supplied to you; or
    - 6.4.1.2. you default on any payment (Cell C SP will give you written notice to pay a deposit if you default on payment).
  - 6.4.2. If Cell C SP requires you to pay a deposit in terms of clause 6.4.1, you will be required to pay such deposit immediately before Cell C SP provides you with further Services. The deposit amount will be calculated with reference to Cell C SP's credit vetting 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.
  - 6.4.3. If you do not pay your Charges on time, if you breach the Agreement or if you do not pay the requested reasonable deposit amount, then Cell C SP may suspend the Services until you have paid the deposit or any outstanding amounts owing and recover the deposit amount from you.
  - 6.4.4. 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 Cell C SP as soon as you realise that you have not received your invoice so that Cell C SP may take steps to assist you with this and advise you of the amount due.
  - 6.4.5. 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 Cell C SP of the change in terms of clause 19 so that Cell C SP can update its systems. You understand and agree

that Cell C SP 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. [This means that you must accept any loss that results from you failing to tell Cell C SP of a change of address details.]

- 6.4.6. You agree and understand that Cell C SP will process a debit order payment for the Subscription Fee in respect of the first month of the Contract Period and for any applicable Connection Fee or once off SIM card Fee (to the extent you do not pay these when you submit your application).

## 7. WHAT HAPPENS IF YOU DO NOT COMPLY WITH THE AGREEMENTS?

### 7.1. What happens if you don't pay on time?

7.1.1. If you do not pay all amounts due on or before the due date for payment then, subject to clause 7.2, Cell C SP will deliver a notice to you and may, in its sole discretion:

- 7.1.1.1. oblige you to perform all your obligations in terms of these Agreements;
- 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 Cell C SP;
- 7.1.1.3. take action in terms of clause 7.2;
- 7.1.1.4. inform any 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 6.3.1(if applicable) to recover any amounts owing for Services; and/or
- 7.1.1.7. hand-over your account to external debt collection agencies or attorneys for collection.

7.1.2. Cell C SP will notify you before the suspension of Services.

7.1.3. In the event that your Services are suspended for a period of three months, Cell C SP may, in its sole discretion, elect to cancel the Agreement with immediate effect. In the event that your Services are suspended for a period of one month in the case of fibre services, Cell C SP may then, in its sole discretion, elect to cancel the Agreement with immediate effect.

7.1.4. 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 the Agreement, Cell C SP has the right to debit your bank account for any shortfall. If neither you nor the Third Party pays any outstanding amounts owing, the provisions of clauses 7.1 and 7.2 will apply.

7.1.5. Cell C SP is entitled to charge you an administration fee which you agree to pay if any debit order or other form of payment is returned unpaid or if your credit card payment is rejected or insufficient payment is received for whatever reason, unless it is due to Cell C SP's own fault. The administration fee will include the bank charges, bank administration fees and other charges and fees that Cell C SP will have to pay.

### 7.2. When may Cell C SP cancel the Agreement?

7.2.1. If you commit a breach of any of the terms and conditions of the 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, Cell C SP will be entitled to immediately:

- 7.2.1.1. cancel the Agreement;
- 7.2.1.2. charge you for the use of Services up to the date of cancellation;
- 7.2.1.3. charge you all Charges outstanding for any of Services (including your Subscription Fee) which would have continued for the Contract Period; and/or
- 7.2.1.4. claim damages.

### 7.3. What happens if you cancel the Agreement?

7.3.1. If you cancel the Agreement, then you will be liable and undertake to pay on demand:

- 7.3.1.1. the outstanding Connection Fee;
- 7.3.1.2. The outstanding Installation Fee;
- 7.3.1.3. the outstanding Subscription Fees and Usage Charges which have been billed but not yet paid by you;
- 7.3.1.4. any Charges and fees payable by you pursuant to any agreement concluded between you and Cell C; and
- 7.3.1.5. any fees paid or payable by you for Equipment under an Equipment Agreement, if any, where those fees have been subsidised by Cell C SP.

## 8. WHEN MAY CELL C SP CANCEL OR TRANSFER THE AGREEMENT

8.1. You agree and understand that in the following instances, your Agreement may, on written notice to you, either be terminated, or transferred to another Electronic Communications Network Provider or Electronic Communications Service Provider:

8.1.1. if Cell C or Cell C SP undergoes a restructuring which requires the Agreement to be terminated or transferred, Cell C SP may elect to either terminate the Agreement on written notice to you, or transfer its rights and obligations under the Agreement to another Electronic Communications Network Provider or Electronic Communications Service Provider on written notice to you; if Cell C's Licence is cancelled, terminated or amended, or if the Cell C Network remains unavailable for a continuous period of 60 (sixty) days, Cell C SP may elect to either terminate the Agreement on written notice to you, or transfer its rights and obligations under the Agreement to another Electronic Communications Network Provider or Electronic Communications Service Provider on written notice to you. if Cell C SP or Cell C is insolvent or Cell C SP or Cell C is under business rescue in terms of the Companies Act, 71 of 2008, or if Cell C SP or Cell C is unable to provide Services in terms of the Agreement, the Cell C may elect, on written notice to you, to either terminate the Agreement or transfer the right to provide the Services under the Agreement to another Electronic Communications Network Provider or Electronic Communications Service Provider. **[Business rescue is a process by which a company in financial distress is provided with the opportunity to reorganise and restructure in order to avoid a possible liquidation.]**

8.2. You will not be charged a cancellation fee if the Agreement is cancelled for any of the reasons set out in clause 8.1, however, you shall remain liable for payment of your Connection Fee (applicable), if

8.3. You agree and understand that if Cell C SP elects to transfer their rights and obligations under the Agreement to another Electronic Communications Network Provider or Electronic Communications Service Provider then:

8.3.1. the Agreement shall not come to an end, unless you request to cancel the Agreement in terms of the cancellation provisions, and you shall remain liable and must continue to pay all amounts in terms of the Agreement, including Charges; and

8.3.2. in order to facilitate the uninterrupted transfer, you agree and request Cell C SP, as far as the law allows, to Port your Cellphone number (if the Services are mobile cellular services) to such other Electronic Communications Network Provider or Electronic Communications Service Provider, unless you request to cancel the Agreement in terms of the cancellation provisions.

## 9. SERVICES

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

9.2. Where the Services are dependent on cellular connectivity, those 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.

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

9.4. The quality and availability of Services may sometimes be affected by factors such as:

- 9.4.1. local physical obstructions;
- 9.4.2. bad weather;

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

9.6. The quality and availability of Services may sometimes be affected by factors such as:

- 9.6.1. local physical obstructions;
- 9.6.2. bad weather;
- 9.6.3. other causes of radiointerference;
- 9.6.4. the features or functionality of your particular equipment;

- 9.6.5. damaged equipment or SIM Card;
- 9.6.6. if there are faults in other electronic communications networks to which the Cell C Network is connected or if the Cell C Network is experiencing uncharacteristic traffic or usage; or

9.6.7. if there are faults in parts of the Cell C Network which are not under the control of Cell C.

9.7. You understand and agree that the SIM Card and Cellphone number allocated to you may (if it becomes necessary) be changed by Cell C SP.

## 10. SIM CARDS

10.1. You are responsible for the safekeeping of your SIM Card and you agree to notify Cell C SP and the South African Police Services immediately if your SIM Card has been lost or stolen or damaged or destroyed. You accept all risks associated with your SIM Card (from the date of delivery).

10.2. Where possible, Cell C SP guarantees that you shall have undisturbed

possession of the SIM Card for the duration of the Agreement. Ownership of the SIM Card will pass to you on expiry or termination provided you have complied with the Agreement and paid all amounts due in terms of the Agreement. This requirement may be waived in writing by Cell C SP.

- 10.3. Cell C SP does not give any warranty in relation to SIM Cards which have been damaged due to water (including dropping SIM Cards in water, damage to SIM Cards due to perspiration and humidity), disassembled, physically altered, permanently installed, affixed, attached, joined or added to, blended or combined with, or embedded within, other equipment or property.
- 10.4. If your SIM Card is faulty, you may return the SIM Card to Cell C SP and Cell C SP will repair or replace the SIM Card (as the case may be)
- 10.5. **You may not use your SIM Card for any machine-to-machine or machine-related services, unless otherwise agreed in writing with Cell C SP.**
- 10.6. **You understand and agree that the Agreement will not automatically come to an end if the SIM Card issued to you is lost, stolen or damaged. You remain liable and must continue to pay all Charges in terms of the Agreement.**

#### 11. CHANGE OF PHYSICAL ADDRESS/AREA [THIS SECTION ONLY APPLIES IF YOU SELECTED FIBRE SERVICES ON YOUR APPLICATION FORM]

- 11.1. In the event that you move from the physical address/area where the fibre services are provided (and as captured in terms of your Application for the fibre services), Cell C SP shall, subject to there being a fibre-enabled Cell C Network in your new area, and furthermore subject to the provisions of this Agreement, arrange for the installation of necessary Equipment for Cell C SP to provide fibre services in your new area. In this event, an Installation Fee and a Connection Fee will be payable by you.
- 11.2. Should you move to an area where Cell C SP is not presently able to, or have elected not to, provide fibre services, you will be entitled to cancel your Agreement (as it relates to the affected fibre services only), subject to the provisions of clause 6.3.

#### 12. INCLUSIVE BENEFITS

- 12.1. Where any Tariff Plan provides for Inclusive Benefits and you do not use all these Inclusive Benefits within the billing period in which they originally accrued, then those unused Inclusive Benefits may be carried over for a reasonable period, to be advised by Cell C SP from time to time (the "Carry Over Period").
- 12.2. Any unused Inclusive Benefits will expire after the Carry-Over Period.
- 12.3. On termination of this Agreement for any reason, any unused Inclusive Benefits will be forfeited and you will have no claim against Cell C SP in respect of such unused Inclusive Benefits. It is your responsibility to ensure that any unused Inclusive Benefits are used up prior to the termination of this Agreement.

#### 13. DISCOUNTS AND PROMOTIONS

Unless Cell C SP advises 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 Contract Period and will not apply in the event that: (i) you migrate to another package (other than the package you initially activated); or (ii) the Agreement is terminated for any reason.

#### 14. LIMITATION OF LIABILITY

- 14.1. **Cell C and Cell C SP will not be liable to you for any liability, loss(es) and/or damage and/or cost or expense 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:**

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

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

14.1.3. **the Porting of the Cellphone number.**

[This clause means Cell C and/or Cell C SP will not reimburse you for any of your losses if the Services are suspended, terminated or unavailable for any reason that you should reasonably expect from the Services, or if Cell C has to change your Cellphone number, or if you ask to Port your number, or if there is any reasonable delay in doing so.]..

#### 15. INTELLECTUAL PROPERTY RIGHTS

Nothing in the Agreement is a licence or transfer to you of any of Cell C or Cell C SP's rights including copyright and/or trade marks relating to the name Cell C, the Services, or the SIM Card (including any software or firmware incorporated in the SIM Card).

#### 16. USE OF YOUR PERSONAL INFORMATION

- 16.1. **You warrant and guarantee that all personal information supplied by you to Cell C SP in the Application is true and correct.**
- 16.2. **You agree to immediately inform Cell C SP in writing if there is any change of whatsoever nature in any of your personal information, including your physical address, previously supplied to Cell C.**
- 16.3. **We collect your personal information from you in two ways, namely:**
  - 16.3.1. **actively from you; and**
  - 16.3.2. **passively from your use of the Services.**
- 16.4. **As and when necessary, you consent to Cell C SP obtaining, using, storing and/or disclosing your personal information for the following purposes:**

- 16.4.1. **to provide to credit grantors and/or credit bureaux and/or banks and/or other financial institutions in order to ascertain information relating to your creditworthiness (before Cell C SP accepts the Application and/or the Agreement) and for fraud prevention purposes and in order to process any payment transactions necessary for and relative to the Agreement;**
- 16.4.2. **to attorneys and/or debt collection agencies if you breach the Agreement;**
- 16.4.3. **to Cell C SP's agents and/or consultants and/or trade partners and/or Electronic Communications Service Providers and/or Cell C, but only to the extent necessary and in order to provide Services to you;**
- 16.4.4. **to consumer research companies for the purposes of conducting research on improving services or products;**
- 16.4.5. **for the purposes of Cell C SP publishing a directory containing the name, address, details and the applicable Cellphone number of subscribers;**
- 16.4.6. **to the Service Providers' auditors for the purposes of auditing their accounts;**
- 16.4.7. **for other purposes relevant to our business activities, provided they are lawful; or**
- 16.4.8. **for the purposes of Cell C SP informing or sending information to you about any new services or products offered by Cell C SP and/or by any of Cell C SP agents and/or consultants and/or trade partners which is considered to be of interest to you. Cell C SP will comply with the direct marketing provisions of the Consumer Protection Act, 68 of 2008 ("CPA") as amended and the CPA regulations, including the provisions relating to the direct marketing registry.**

[In this clause you consent to Cell C SP using your private information for all the purposes set out in clauses 16.4.1 to 16.4.7.]

- 16.5. You may refuse to accept, require us to discontinue, or pre-emptively block any approach or communications from us if that approach or communication is primarily for the purpose of direct marketing ("direct marketing communications"). You may opt out of receiving direct marketing communications from us at any time by requesting us on 084 135 to desist from initiating any direct marketing to you. If you have opted out, we may send you written (which may include electronic writing) confirmation of receipt of your opt out request, and not send you any further direct marketing communications.
  - 16.6. **Cell C wishes to provide you with a flexible service, which allows you, subject to clause 5.4, to migrate to Cell C packages that best suit you needs and which may enhance your use of the Services. If you elect to opt out from direct marketing communications (as contemplated in clause 16.5), you will not receive all the latest offers, updates and advertisements that may be of interest to you from Cell C SP. You acknowledge and agree that opting out of direct marketing communications may reduce your ability to benefit from the flexible service offered by Cell C SP.**
  - 16.7. You are entitled to withdraw your consent for using your personal information under clauses 16.4.5 and 16.4.8 above on written notice or notice in any other recorded form to Cell C SP. In the event you decide to withdraw your consent Cell C SP will not be able to use your information for the purposes listed under clauses 16.4.5 and 16.4.8 to the extent that you withdraw your consent from the date your withdrawal notice is received.
  - 16.8. We take reasonable technical and organisational measures to secure the integrity of retained information, using accepted technological standards to prevent unauthorised access to or disclosure of your personal information, and protect your personal information from misuse, loss, alteration or destruction. From time to time, we review our information collection, storage and processing practices, including physical security measures, to keep up to date with good practice. Even by taking the above measures when processing, storing, using, obtaining or disclosing personal information, we do not guarantee that your personal information is 100% secure.
  - 16.9. We may keep, use, store and/or disclose some or all of your personal information if and for as long as:
    - 16.9.1. we are required or permitted by law or a contract with you to keep it;
    - 16.9.2. we reasonably need it for lawful purposes related to our functions and activities;
    - 16.9.3. we reasonably need it for evidentiary purposes; or
    - 16.9.4. you agree to us keeping it for a specified further period.
  - 16.10. **You agree that where the law requires us to make you aware of something (to inform or notify you) or to do something else, we do not have to do this. This only applies as far as the law allows this. Cell C SP will not disclose your personal information to any other person or institution other than as stated under clause 16.3, or where entitled to do so in terms of any law and/or where compelled to do so in terms of the Licence and/or in terms of a court order.**
- #### 17. BLACKLISTING
- 17.1. **If your SIM Card (if applicable) is lost or stolen during the Contract Period then you must tell Cell C SP immediately so that your interests can be protected and SIM Card blocked from further use. You also have a responsibility under the Regulation of Interception of Communications and Provision of Communication-related Information Act 70 of 2002 (RICA) to report the lost or stolen SIM Card to a law enforcement officer. You will remain liable for all Charges until you have asked Cell C SP to block further use of your SIM Card. You will not be liable for any Usage Charges incurred by any unauthorised person after you have requested Cell C SP to block**

your SIM Card (as the Charges relate to the blocked SIM Card), but you will continue to be liable for the Subscription Fee for the entire Contract Period.

- 17.2. Cell C SP agrees to blacklist the use of your SIM Card 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 and hold Cell C and Cell C SP harmless against any liability, claim, costs or expenses which may be made against Cell C and/or Cell C SP by you or by any other person or organisation as a result of such blacklisting. [This clause means that if you ask Cell C SP to block or blacklist your SIM Card you cannot claim any loss from Cell C and/or Cell C SP and you must pay Cell C and/or Cell C SP (as the case may be) any amount they have to pay anyone else because of it.]
- 17.3. Cell C SP may charge you a reasonable fee for the blacklisting in terms of this clause and for the removal of the SIM Cards or any other Equipment from the blacklist.

**18. MOBILE NUMBER PORTABILITY (if applicable) [THIS SECTION ONLY APPLIES TO THE SERVICES WHERE YOU ARE ISSUED A SIM CARD.]**

- 18.1. If you have Ported your Cellphone Number to Cell C SP 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 Cell C SP or Cell C and that you will in turn only have access to the Services as provided for and defined in this Agreement.
- 18.2. 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 Cell C SP are not responsible for paying any amounts to the other Electronic Communications Network Provider or Electronic Communications Service Provider.
- 18.3. You agree and understand that you remain liable to pay all amounts due in the event that you want to Port your Cellphone number from Cell C SP or Cell C to another Electronic Communications Network Provider or Electronic Communications Service Provider. In the event that you Port your Cellphone number the provisions of the Number Portability Regulations will apply.

**19. RICA**

- 19.1. RICA is applicable to Services and the SIM Card and to you in terms of this Agreement and:
- 19.1.1. in terms of RICA, Cell C SP is required to be satisfied as to your identity which includes getting a copy of your ID and proof of your physical address from you;
- 19.1.2. Cell C SP or Cell C will not activate your SIM Card and/or Service (if applicable) until all your details as required by RICA have been properly registered;
- 19.1.3. Cell C SP 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;
- 19.1.4. you must immediately report any loss, theft or destruction of your SIM Card to the police, otherwise you may be committing an offence and may be liable to a fine or imprisonment; and
- 19.1.5. if you transfer your SIM Card to another person (other than a family member or a dependant of yours) then you must register the details of that person with Cell C SP under RICA or you will be liable to a fine or imprisonment.

**20. MONTHLY USAGE LIMIT [THIS SECTION ONLY APPLIES TO THE SERVICES WHERE YOU ARE ISSUED A SIM CARD.]**

- 20.1. You understand and agree that Cell C SP may, of its own choice and discretion, implement a Monthly Usage Limit, without notice to you.
- 20.2. Where Cell C SP implements a Monthly Usage Limit (either at your request or by Cell C SP's choice), then the chosen Monthly Usage Limit will be calculated in accordance with Cell C SP's billing cycle.
- 20.3. When you reach 70% of the Monthly Usage Limit, Cell C SP will make reasonable efforts to send you an SMS advising that your Monthly Usage Limit has almost been reached.
- 20.4. If the Monthly Usage Limit is reached then Cell C SP is entitled to use all reasonable efforts to prevent you from making further use of Services, except for calls to emergency services numbers namely 112 and for accessing your voice mail box.
- 20.5. **The Monthly Usage Limit cannot be applied when you are attempting to access the Services outside the borders of South Africa (also called "international roaming") as Cell C SP 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 Cell C SP 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.**
- 20.6. You accept that Cell C SP cannot guarantee to implement the Monthly Usage Limit and you remain responsible to pay for all Usage Charges spent on your SIM Card over and above the Monthly Usage Limit regardless whether or not Cell C SP implements the Monthly Usage Limit.

**21. GENERAL**

**21.1. Notices**

- 21.1.1. 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 must be brought to the attention of Cell C SP immediately. Any change in your address will only be effective if and when Cell C SP receives written notification of your change of address.
- 21.1.2. Cell C SP may deliver certain notices to you by SMS, fax and/or email.
- 21.1.3. Notices that do not negatively affect you, will be delivered and will be considered as received:
- 21.1.3.1. if delivery is by hand, then on the date of delivery;
- 21.1.3.2. if delivery is by fax, then within 24 hours of transmission of the fax;
- 21.1.3.3. if delivery is by email or SMS, 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 or SMS.
- 21.1.4. Any legal notices given by Cell C SP which are 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.

**21.2. Transfer of rights and obligations**

- 21.2.1. You must not do any of the following at any time without Cell C SP's permission and Cell C SP will not unreasonably withhold such permission:
- 21.2.1.1. transfer / cede any of your rights under the Agreement to any other entity or person; or
- 21.2.1.2. transfer / delegate or hand-over any of your obligations or responsibilities under the Agreement to any other entity or person.
- 21.2.1.3. To the extent that this is allowed by law, you agree that Cell C SP can at any time do any of the following without your permission:
- 21.2.1.4. transfer / cede any rights under the Agreement, to any one or more persons or entities; and/or
- 21.2.1.5. transfer / delegate or hand-over any obligations or responsibilities under the Agreement to any one or more persons or entities.

**21.3. Extensions of time and indulgences**

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

**21.4. Unenforceable provisions**

If any term of the Agreement is unenforceable, illegal, void, or contrary to public policy then it will be deleted from the Agreement. The remaining provisions of the Agreement will however remain binding and in full force. No provision of this Agreement (or any contract governed by this Agreement):

- 21.4.1. does or purports to limit or exempt us or any other person or entity from any liability (including, without limitation, for any loss directly or indirectly attributable to our gross negligence or wilful default or that of any other person acting for or controlled by us) to the extent that the law does not allow such a limitation or exemption;
- 21.4.2. requires you to assume risk or liability for the kind of liability or loss, to the extent that the law does not allow such an assumption of risk or liability; or
- 21.4.3. limits or excludes any warranties or obligations which are implied into this Agreement (or any contract governed by this Agreement) by the Consumer Protection Act, 68 of 2008 (the "CPA") or the Protection of Personal Information Act, 4 of 2013 ("POPI") (to the extent they are applicable) or which we give under the CPA or POPI (to the extent they are applicable), to the extent that the law does not allow them to be limited or excluded.

**21.5. Amendments**

Cell C SP is entitled, on written notice to you (which notice may be sent via SMS), to change the terms and conditions of the Agreement if necessary because of any new and / or amended law, tax regulation and/ or any change in the Tariff Plan or Services Cell C SP is further entitled on written notice to you (which notice may be sent via SMS), to change the

terms and conditions of the Agreement if necessary because of any new and/or amended law, tax, regulation and/or any change in the terms and conditions of Cell C's Licence and/or any change in the Tariff Plan or Services. Cell C SP is further entitled on written notice to you (which notice may be sent via SMS), to change the terms and conditions of any Services. If Cell C SP changes 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 the Agreement and/or the amended terms and conditions of the Services on [www.cellc.co.za](http://www.cellc.co.za). If you do not agree to the amendments, you may terminate the Agreement subject to the cancellation provisions of the Agreement by giving 30 calendar 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.

**21.6. Whole agreement**

Except Cell C SP's right to change the Agreement described in clause 21.5 above, these Terms and Conditions, read with the Tariff Plan and any other terms and conditions applicable to the Services and/or Equipment utilised by the Subscriber (including product or service specific terms and conditions), constitute the whole agreement between you and Cell C SP and no amendment, deletion or addition of the Terms and Conditions will be valid unless it is stipulated in writing and agreed to by all parties.

**21.7. Legal Costs**

To the extent allowed by law, if Cell C SP elects to take any legal action arising from breach of any terms and conditions of the 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.

**21.8. Warranty and Indemnity**

**You warrant that you have the necessary rights to enter into the Agreement and you indemnify and hold Cell C and Cell C SP harmless against any liability, claim, damage or loss that a third party might have arising out of the Agreement if you do not have the necessary rights. [This clause means that if you do not have authority to sign the Agreement you will be personally liable for any loss that results from your lack of authority.]**

**21.9. Evidence**

A computerised account or a certificate signed by a manager of Cell C SP (whose authority Cell C SP needs not prove) will be proof on the face of it of any amount due by you in terms of the Agreement. You are entitled to challenge the correctness of any such certificate if you want to do so.

**21.10. Governing Law**

This Agreement is subject to South African law.

**21.11. Resolving Disputes**

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

21.11.2. Despite the above, you can refer any unresolved dispute between you and Cell C SP 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.

21.11.3. Nothing in this clause prevents you from taking legal action against Cell C SP.