

# General Terms and Conditions

## Skyber Wifi Enterprises (PTY) LTD

Registration Number 2018/610350/07

### DEFINITIONS

- 1.1. "Skyber Wifi Enterprises" means Skyber Wifi Enterprises (PTY) LTD Reg. No. 2018/310350/07.
- 1.2. "Customer" means a user or host of any Skyber Wifi Enterprises services.
- 1.3. "Agreement" means the agreement between you the client and the company in respect of the product of service contemplated on in the application form or website.
- 1.4. "Services" means any Skyber Wifi Enterprises internet access package and any other related internet services.
- 1.5. "Equipment" means any device, equipment or hardware used to access the services or used in conjunction with the services.
- 1.6. "Website" means [www.skyberwifienterprises.co.za](http://www.skyberwifienterprises.co.za).
- 1.7. "Acceptable Use Policy" (AUP) means the policy, which is available on the Website and is incorporated by reference in this Agreement, that regulates the use of the services.
- 1.8. "Uncontrollable Event" means (including without limitations) any fire, flood, earthquake, elements of nature or act of God, riots civil disorders, vandalism of high sites, load shedding or any other cause beyond the reasonable control of the company including the termination or suspension of a service or product provided by a network operator and/or third party suppliers, that may result in a delay or failure to provide any product or service.
- 1.9. "Network Coverage" means the geographical area within which the service can be accessed and used by you, as deterrent at the time coverage was established including any line of sight restrictions.
- 1.10. "EC Act" means the Electronic Communications Act, 2005.
- 1.11. "ECT Act" means the Electronic Communications Act and Transactions Act, 2002.
- 1.12. "ICASA" means the Independent Communications Authority of South Africa.
- 1.13. "Juristic Person" means a company or close corporation and includes a body corporate, partnership, association or trust.
- 1.14. "NCA" means the National Credit Act, 34 of 2005.
- 1.15. "RICA" means the Regulation of Interception of Communications and Provision of Communication Related Information Act, 2002.
- 1.16. "VAT" means Value Added Tax as provided for in the Value Added Tax Act, 1991.
- 1.17. "Acceptance Date" means the date on which you accepted the agreement, be that in writing or by way of electronic medium, for example by clicking or message "I agree" on a web page or via your mobile phone, or telephonic or verbal acceptance.
- 1.18. "Business Day" means Monday to Friday, but excludes Saturdays and a day which is an official public holiday in the Republic of South Africa.
- 1.19. "Business Hours" means the hours between 08h00 and 17h00 on a Business Day.
- 1.20. "CPE" means customer premises equipment.
- 1.21. "LOS" means Line of sight is a type of propagation that can transmit and receive data only where transmit and receive stations are in view of each other without any sort of an obstacle between them. FM radio, microwave and satellite transmission are examples of line-of-sight communication.

## CONDITION OF ACCESS

- 2.1. By signing up with Skyber Wifi Enterprises you agree, without limitation or qualification, to be bound by this to policy and terms and conditions it contains, as well as any other additional terms, conditions, rules or policies which are displayed to you in connection with this service / website.
- 2.2. The parties acknowledge and agree that this Agreement constitutes the whole of the agreement between them and that no other agreements, guarantees, undertakings or representations, either verbal or in writing, relating to the subject matter of this Agreement not incorporated in this Agreement shall be binding on the parties. No changes or cancellation of this Agreement by the customer will be binding on any of the parties unless recorded in writing and signed by both parties, notwithstanding activation of the service.
- 2.3. The customer agrees that any invoices or notices sent by Skyber Wifi Enterprises to the customer in terms of any agreement concluded between the parties may be sent via e-mail, WhatsApp or sms unless otherwise prescribed by law.
- 2.4. The customer undertakes not to use services and / or equipment for illegal or improper purposes, and to maintain equipment only for the purpose for which it was manufactured. The customer may not make changes to equipment. The customer will comply with applicable laws including immaterial rights.
- 2.5. Agreement commences upon signing of this by both parties and will be binding on a month to month basis. Either party may cancel the agreement with written notice by e-mail or WhatsApp to the other party.
- 2.6. The customer undertakes that he/she/they will not knowingly create store or disseminate any illegal content, commit to lawfully conduct him/her/themselves in the use of the services, including copyright and intellectual property rights.
- 2.7. The customer undertakes that he/she/they will be responsible to manage and control the use of the service by minors able to access the network under his/her/their care.
- 2.8. The customer shall be liable to Skyber Wifi Enterprises for all legal costs incurred by Skyber Wifi Enterprises in enforcing Skyber Wifi Enterprises 's rights against the customer in terms of this Agreement, on the attorney and own client scale, including collection commission.
- 2.9. Skyber Wifi Enterprises reserves the right to terminate this Agreement and any service provision to a customer where there is a breach of these Terms of Use but undertakes to act reasonably in doing so.

## EQUIPMENT

- 2.10. Risk in and to the equipment shall pass to the customer upon delivery of the equipment to the customer.
- 2.11. The customer shall only use the equipment in strict accordance with any instructions for use, set by Skyber Wifi Enterprises (and in accordance with the provisions of any license held by Skyber Wifi Enterprises, if applicable).
- 2.12. the customer shall not in any manner tamper with, or modify the equipment.
- 2.13. All equipment carries a one-year manufactures guarantee excluding power supplies. We recommend a UPS to be used on all radio equipment. Maintenance outside the manufacturers guarantee is for the customer's account.
- 2.14. The client premises equipment (CPE) remains the responsibility of the client and needs to be insured.
- 2.15. Rental equipment will be maintained by Skyber Wifi Enterprises but needs to be insured by the customer against theft and storm damage.
- 2.16. Skyber Wifi Enterprises will not be liable for the maintenance of any of the client's hardware and/or software, unless agreed to by both parties and a quoted labour price is accepted thereof.
- 2.17. Customers are allowed to buy they own equipment and do they own installation as long as it is Icasa approved.

- 2.18. "Line of Site (LOS)" The initial inspection required Skyber Wifi Enterprises excess on your property to determent the possibility of connection to the Skyber Wifi Enterprises network.
- 2.19. Skyber Wifi Enterprises shall be allowed all reasonable access required by Skyber Wifi Enterprises to deliver, install and maintain the equipment and Skyber Wifi Enterprises shall at all times be afforded access to the equipment for the purposes of maintenance or inspection of the equipment.
- 2.20. Installation kits will be determent upon a site survey.

## INSTALLATION

- 2.21. We Skyber Wifi Enterprises will try to meet any date agreed with you for installation or activation of the services, but we Skyber Wifi Enterprises may have to change the installation date given to you or activation may be delayed. We will try to notify you of any changes as soon as possible.
- 2.22. You agree that you or a person authorised by you (who is 18 or over) will be present when we install the equipment at your premises.
- 2.23. You authorise us to install, keep and use apparatus (including but not limited to equipment and additional equipment) at your premises and you agree that we and our employees, agents or contractors may enter your premises so that we can, carry out any work that is necessary for us to connect, maintain, alter, replace or remove any apparatus necessary for us to supply the services you and others have asked for, and inspect any apparatus and equipment which you may keep there.
- 2.24. We agree to cause as little disturbance as reasonably possible when carrying out any work at your premises.
- 2.25. You agree not to do anything, or allow anything to be done, at your premises that may cause damage to or interfere with any apparatus or prevent use or easy access to it.
- 2.26. Where we provide equipment to you (on our account) it will be our property at all times and we may need to alter or replace it from time to time. For us to do this, we will need reasonable access to your premises.
- 2.27. Where we need to install equipment at your premises, we will make every effort to fit the equipment where you prefer. However, this may not be possible because of technical or other reasons. If this is the case, we will connect the equipment as we see fit. Please do not move any equipment. Should you wish to alter the routing of any existing equipment such as cables or wall brackets, you should contact us.
- 2.28. Where we do not need to install equipment at your premises, we will either send you all the equipment you need to connect to the services, or advise you of any additional equipment you need. If applicable, it is your responsibility to purchase the additional equipment as notified to you. We will not be liable to you for any loss or damage caused by your installation of the equipment or additional equipment.
- 2.29. Where we have recommended additional equipment for use with the services and you have chosen not to take our recommendation, we cannot guarantee compatibility of the equipment you choose, nor can we provide installation or ongoing support in respect of that equipment.
- 2.30. To provide the services, the equipment (e.g. a wireless router) must be connected to equipment belonging to you (e.g. a computer). We are not responsible for your equipment working properly. You agree to provide and pay for suitable facilities and all necessary electrical and other installations and fittings (including fly-leads, software, extension cables) for the equipment. You must follow our instructions for this.
- 2.31. Where we need to set up any services on your equipment you authorise us to have access to your equipment to perform such set-up (which may include the installation of software) and to check that those services are working properly. You confirm that you will have prepared your equipment, and will follow our instructions to prepare your equipment, so that we can perform the set-up properly. It is your responsibility to keep back-up copies of any important data stored on your equipment prior to the set-up of any services by us on your equipment.
- 2.32. You are responsible for applying for any consents and permissions necessary for us to connect and maintain the equipment at your premises (for example, any permission necessary to install aerials).

We are not obliged to install or provide the services unless all consents and permissions have been obtained.

- 2.33. Any equipment which you own and which you connect to the system (for example, phones, fax machines, computers) must meet with all relevant laws and regulations. We reserve the right to disconnect any equipment that does not meet these laws and regulations. You may use your own equipment together with our equipment, but we do not guarantee that our equipment will work with your equipment.
- 2.34. We will not be liable in any way for any loss or damage which is caused to your own equipment arising as a result of its use with our equipment. We will not be liable for any loss of or damage to any additional equipment. We have the right to charge you for any replacement additional equipment.
- 2.35. If we or you end these agreements, if you decide to disconnect from some of our services, or if you wish to take up an offer to upgrade the equipment we provide to you, you must return the equipment to us or (if we choose) make it available for collection in a reasonable condition, allowing for fair wear and tear. If you fail to return or make available the equipment for collection for any reason, we are entitled to charge you for the replacement cost and reasonable recovery costs of the equipment. If we hold any money, we may use that money towards the cost of the equipment. If we have supplied you with any additional equipment, we'd encourage you to dispose of it responsibly if you're no longer using it so please contact us for further information about disposing of your additional equipment.
- 2.36. You are responsible for making sure that our equipment is safe and used properly at all times. To do this, you agree to do the following:
  - a. Follow the manufacturer's instructions and any other instructions we have given you;
  - b. Keep the equipment in your premises and under your control (for example, you may not sell it, lend it or hire it out to anyone else, put it up as security for a loan or mortgage, or allow it to be seized under any legal process against you).
  - c. Insure any of our equipment against any loss, theft or damage for the full replacement value;
  - d. Not remove, tamper with or cross out any words or labels on our equipment;
  - e. Take proper care at all times to prevent the loss or theft of our equipment.
- 2.37. We Skyber Wifi Enterprises obligation to provide the services is also subject to survey, If a survey shows that the services cannot be installed or connected at your premises, or if a non-standard installation is required, we may cancel any installation date we have given you and terminate these agreements. You will be notified of this as soon as possible after the survey.
- 2.38. We Skyber Wifi Enterprises shall not be under any liability whatsoever to you for any failure to provide the services in these circumstances but will refund you for any payments you have already made to us for installation of the services.
- 2.39. We do not have to connect the equipment at your premises or otherwise keep to these agreements if:
  - a. your premises is outside our service area or in a part of our service area where no signal is available or we are unable to activate the services at your premises for any reason;
  - b. you do not qualify under our current credit policy;
  - c. you are not able to be a customer because you have previously misused our services.
- 2.40. Skyber Wifi Enterprises does not take any responsibility for damages to any property or equipment during the installation or maintenance of the by Skyber Wifi Enterprises equipment on your premises.

## SERVICES

- 2.41. If you keep to the terms of these agreements, we will provide you with the services
- 2.42. As well as these terms and conditions, the services have other legal stuff which applies to the services and their use, as published by us on the Skyber Wifi Enterprises website. These may be updated from time to time so please check the website regularly and read through it carefully. This

other legal stuff includes our 'acceptable use policy' and 'traffic management policy' which you can read on the website.

- 2.43. You agree that you are liable for any charges on your account regardless of whether you or anybody else (with or without your permission) runs up those charges (unless the charges result from fraud by someone else which you could have had no control over). For example, if someone who has access to your premises uses the services, they will be considered to be within your control and you will be liable for those charges. If you become aware of any fraud by someone else, you must tell us as quickly as you can.
- 2.44. Under no circumstances should you give your passwords to anybody else (unless you're happy for them to use your account and add charges on your account).
- 2.45. We also reserve the right to monitor and control data volume and/or types of traffic transmitted via the services.
- 2.46. You acknowledge that we cannot guarantee you will be able to have and use any name (ssid e.g. Wi-Fi-name) you request and we may require you to select a replacement name if we believe that your current choice of name is, or is likely to be, in breach of our acceptable use policy.
- 2.47. Any IP address allocated by us to you will at all times belong to us and you may not transfer the address to any person. If these agreements end, your right to use the Internet address shall automatically terminate and thereafter you will not use the IP address.
- 2.48. We Skyber Wifi Enterprises will provide any maintenance services during normal working hours that we believe are necessary for the system and equipment to work properly and for us Skyber Wifi Enterprises to provide the services to you.
- 2.49. We Skyber Wifi Enterprises will always aim to provide you with the best service possible, but neither we (as applicable) will be liable for interruptions, or other problems with services that are beyond our reasonable control.
- 2.50. You agree that you will tell us about any fault in the services by contacting our technical services team, who will aim to respond as promptly as possible. In many circumstances it is possible to correct a fault over the phone. If this is not possible, we will send a technician to correct the fault (additional charges may apply).
- 2.51. If you prevent necessary maintenance from being carried out (at a time previously agreed and arranged with you), or if the maintenance necessary is the result of any one or more of the following, we will be entitled to charge you a service fee:
  - a. Misuse or neglect of, or accidental or wilful damage to, the equipment;
  - b. Fault in, or any other problem associated with, your own equipment or any system that we do not cover;
- 2.52. We are not responsible if you are not able to use the services because your equipment (for example, your computer, network interface card, printer, or other equipment) does not work properly, is not compatible with the system or does not meet the minimum specifications or because of faults in any public communications provider's network (where applicable).
- 2.53. You may not restrict, inhibit or interfere with the ability of any person to access, use or enjoy the Internet or any services, or create an unusually large burden on our network, including, without limitation, continuously uploading or downloading streaming video or audio, continuous FTP uploading or downloading, or otherwise generating levels of traffic sufficient to impede others' ability to send or retrieve information, or to use the services in an abusive manner in connection with any unlimited or uncapped packages, options or promotions.
- 2.54. We can terminate the service at any time if we decide to discontinue the service offering for any reason whatsoever, without any further liability to you. traffic sufficient to impede others' ability to send or retrieve information, or to use the services in an abusive manner in connection with any unlimited or uncapped packages, options or promotions.

## PROTECTION OF MINORS

- 2.55. You are responsible for the way the services are used. You must not use the services to do any of the following acts or allow anyone else to use the services to do the following acts.
- a. Send a message or communication that is offensive, abusive, defamatory (damages someone's reputation), obscene, menacing or illegal;
  - b. Cause annoyance, nuisance, inconvenience or needless worry to, or break the rights of, any other person;
  - c. Perform any illegal activity;
  - d. Break, or try to break, the security of anyone else's equipment, hardware or software;
  - e. Deliberately receive, use, own, post, transmit or publish obscene material (including, but not limited to, child pornography);
  - f. Upload, download, post, publish or transmit any information, material or software that is protected by copyright or other ownership rights without the permission of its owner;
  - g. Use any Internet Protocol (IP) address that we have not assigned to you. Put simply, you may not use the services to harm the service of another internet user or impersonate another user, whether on our network or external to our network. You acknowledge that we may change your Internet Protocol (IP) address from time to time without giving you notice;
  - h. Use the services in a way that: (i) risks degradation of service levels to other customers; (ii) puts our Systems system at risk; and/or (iii) is not in keeping with that reasonably expected of a residential or business customer as appropriate customer. If we believe that you are using the services in any of these ways, we Skyber Wifi Enterprises are entitled to reduce, suspend and/or terminate any or all of the services without giving you notice.
- 2.56. You must, at all times, make sure that the way you use the services does not break the law or the rights of any other person.
- 2.57. We are required to comply with an order, instruction or request of Government, an emergency services organisation or other competent administration or regulatory authority.
- 2.58. You agree to take responsibility for all liabilities, claims and losses which are in any way connected with misusing the services supplied to you under these agreements.
- 2.59. Where a usage or storage allowance is allocated to you as part of the services, you are responsible for making sure that you do not use more than your allowance. We are not responsible for any negative consequences of your failure to do so. Furthermore, if you exceed any allowance applicable to your services, we reserve the right (at our sole discretion) to re-grade the services in question at the appropriate charge. If we make such changes, we will notify you as soon as possible.
- 2.60. Some parts of the services enable you to access third party content and services (some of which may require you to accept additional terms and which may be subject to additional fees), and you agree that we are not responsible for any such third-party content or services.

#### MATTERS BEYOND REASONABLE CONTROL

- 2.61. Skyber Wifi Enterprises Affinity will not be liable for failing to do what it promised under these agreements if it is prevented from doing so by something outside its reasonable control which will include (but is not limited to) lightning, flood or severe weather conditions, fire or explosion, civil disorder, damage or vandalism to our network or equipment, terrorist activities, war, actions of local or national governments or other authorities, or industrial disputes.

#### NETWORK AND PERFORMANCE

- 2.62. Skyber Wifi Enterprises will use its best endeavours to notify you in advance of any maintenance and repairs which may result in the unavailability of a service, but cannot always guarantee this.
- 2.63. We are committed to provide you with uninterrupted services. However, we cannot guarantee that service and the allocated capacity will always be available.
- 2.64. Skyber Wifi Enterprises currently prioritizes Web, Email, Gaming and Streaming Traffic for our customers.

- 2.65. Skyber Wifi Enterprises reserves the right at its sole discretion to determine whether any customer's use of the service interferes with other customer's use and enjoyment of the services.
- 2.66. Users may not use the services in a way to result in excessive data transfer so as such to negatively impact other customers; this includes excessive P2P and Torrent Traffic, customers that wish to use these protocols are requested to do so between 12:00 am and 05:00 am.
- 2.67. Skyber Wifi Enterprises is not responsible for the client's internal network. Our responsibility ends at the CPE on the client's roof.
- 2.68. We will manage bandwidth usage to the best of our ability during peak periods, however, it remains a best effort service.
- 2.69. We may take any other action we deem appropriate to help ensure the security of our network and services and to help ensure the integrity of the network experience for all subscribers, including limiting your data traffic by controlling your network and/or bandwidth usage.
- 2.70. Skyber Wifi Enterprises provides a best effort service and due to Capacity cannot always guarantee a customer's maximum purchased capacity.
- 2.71. Data speeds and latency may be affected by factors outside of Skyber Wifi Enterprises control.
- 2.72. Speeds are indicative and are not guaranteed. All speeds are asymmetrical.

#### BREACH

- 2.73. You further agree not to use Internet applications for simulating network activity to avoid session inactivity disconnection.
- 2.74. Hacking, attacking, gaining access to, breaching, circumventing or testing the vulnerability of the user authentication or security of any host, network, server, personal computer, network access and control devices, software or data without express authorization of the owner of the system or network.
- 2.75. Impersonating others or secretly or deceptively obtaining personal information of third parties (phishing, etc.).
- 2.76. When you or another person at your premises have committed, or may be committing, any fraud against us, or any other person or organisation by using the services or equipment (or both).
- 2.77. fails to pay any amount payable to Skyber Wifi Enterprises in terms of the Agreement on due date.
- 2.78. Illegal use of any networking software to bypass the standard Skyber Wifi Enterprises configuration and regulation is strictly forbidden and is a criminal offence and will be prosecuted.
- 2.79. Skyber Wifi Enterprises reserves the right to terminate this Agreement and any service provision to a customer where there is a breach of these Terms of Use but undertakes to act reasonably in doing so.

#### CONFIDENTIALITY

- 2.80. Each party acknowledges that it will exchange proprietary and confidential information with the other, as reasonably necessary for each to perform its obligations under this agreement. All information relating to this agreement provided by either party to the other, whether oral or written, shall be deemed to be confidential and proprietary information, unless indicated to the contrary in writing.

#### PAYMENT

- 2.81. Installation kits and instalment fees are to be paid upfront.
- 2.82. Monthly internet service/s are to be paid in advance.
- 2.83. All packages are on a Month to Month basis and can be cancelled at any time, without any refund.
- 2.84. Payment is due before the 3rd day from of each new month.
- 2.85. Payments not paid by the 3rd of each month will be automatically seen as a Cancellation for the month services.

- 2.86. Should customer fail to pay within such terms as set forth herein, Skyber Wifi Enterprises shall have the right to temporarily suspend service until such time as the customer/s account is brought within terms.
- 2.87. Customers doing their own installation are to pay Skyber Wifi Enterprises a R100 for technical services rendered on the AP side.
- 2.88. Customer agrees to pay a R100 reconnection/reinstatement charge for each occurrence in which Skyber Wifi Enterprises has restored service after suspending service for more than 3 Months non-payment.
- 2.89. When customer elects to pay via Eft, cash deposit or any form of payment, they are advised to put their name and surname as proof of payment, and mail a proof of payment to skyberwifi@gmail.com or WhatsApp.

#### Service Plans

- 2.90. Customer agrees that provider has multiple service plans and in any given billing period customer actual usage may exceed the service plan initially selected by customer in this agreement due to additional services being ordered by customer and/or use of services which exceed the initially selected service plan.
- 2.91. Provider shall invoice customer based on the actual services used for any given billing cycle.
- 2.92. Each service plan is a month to month term.

#### Termination

- 2.93. This Agreement, the license provided herein, and Customer's right to use Provider's Internet Service may be terminated by Provider at any time for violations of provisions contained in this Agreement, and most specifically, if Customer violates any of the terms of this Agreement. Customer may terminate this Agreement at any time upon providing a 30-day written notice to Provider and upon return of Provider's equipment and related connecting cables to Provider. Customer's bill will be prorated for any prepaid service which may offset any outstanding Customer balance.
- 2.94. This agreement shall be binding upon and inure to the benefit of the parties, their respective heirs, executors, administrators, legal representatives, successors and assigns, except that it may not be assigned by Customer.
- 2.95. This document and the Customer's current monthly service plan constitute the entire agreement between Provider and Customer. This agreement may not be modified except in writing and when signed by duly authorized representatives of Provider and Customer. In the event Customer issues a purchase order, memorandum, specifications or other instrument covering the services provided, such purchase order, memorandum, specifications, or instrument is for Customer's internal purposes only, and any and all terms and conditions contained therein, whether printed or written, shall not be of any force or effect as between the parties to this Agreement. All parties hereby acknowledge that they have read and understood this Agreement and any attachments and exhibits thereto. This agreement is effective as of the Commencement Date, and remains in effect until terminated pursuant to its terms.