

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



THE POWER IS IN YOUR HANDS

**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 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 Supplier and the Equipment will be supplied to you by the Equipment Supplier. If you have not been supplied with Equipment by the Equipment Supplier in terms of this Agreement, all references to Equipment and the Equipment Supplier will not apply to you.
- 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 and the Equipment shall be made and/or referred by you to Cell C SP. You further understand and agree that all communication in respect of the Agreement, including the Services and Equipment, except for communication in terms of clause 7, shall be sent by Cell C SP on its own behalf and on behalf of the Equipment Supplier.
- 1.4. The terms and conditions contained in this document form part of the Agreement between Cell C SP, the Equipment Supplier and you, so please ensure that you understand and comply with all of them. 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 may 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 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:

**"Activation"** means the activating of your SIM Card and/or Cellphone number to operate on the Cell C Network so that you can use the Services.

**"Agreement"** means your accepted Application for the Services and Equipment and any annexures, including these terms and conditions and/or your renewal agreement (if applicable) and including any addition or amendment to them. The Tariff Plan and any notice or directive issued by Cell C SP also form part of the said agreement.

**"Application"** means your completed application form and/or your renewal application form (where applicable) for Services and/or Equipment.

**"Cell C"** means Cell C Proprietary Limited, 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.

**"Cell C Network"** means the electronic communications network in South Africa operated by Cell C.

**"Cell C SP"** means Cell C Service Provider Company Proprietary Limited, 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.

**"Cellphone number" or "MSISDN number"** means the unique Mobile Station Integrated Services Digital Network number allocated to you in terms of this Agreement.

**"Charges"** means any applicable connection fee, Subscription Fee, Usage Charges, SIM Card fee, Equipment Fee, risk transfer charge and any other charge relating to the provision of Services and Equipment to you in terms of the Agreement. The prices at the date you start your Agreement may not be the same for the whole period of the Agreement. If the prices 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.

**"Connection Fee"** means the once-off charge for your connection to the Cell C Network.

**"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.

**"Electronic Communications Network Provider"** means any person or organisation licensed in terms of the Electronic Communications Act, 2005 to provide electronic communications network services.

**"Electronic Communications Service Provider"** means a person or organisation licensed in terms of the Electronic Communications Act, 2005, to provide electronic communications services.

**"Equipment"** means any tangible object supplied to you by the Equipment Supplier in terms of the Agreement that allows you to access the Cell C Network, including cellphones, routers, dongles, laptops, or tablets in which your SIM Card is installed.

**"Equipment Fee"** means any applicable charges relating to the Equipment supplied to you by the Equipment Supplier in terms of the Agreement.

**"Equipment Supplier"** means Comm Equipment Company (Proprietary) Limited, 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.

**"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.

**"Inclusive Benefits"** means any voice minutes/SMSs/MMSs/data that is included as part of this Agreement 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 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 [www.cellc.co.za](http://www.cellc.co.za) or ask in store.

**"Licence"** means any licence issued to Cell C in terms of the Electronic Communications Act, 2005.

**"Monthly Usage Limit"** means the monthly amount defined by Cell C SP 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.

**"Port" or "Porting" or "Mobile Number Portability"** means 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 Electronic Communications Service Provider, but using the same Cellphone number.

**"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 Cell C SP for an explanation of what the prices are for Services, which may change, on notice to you, over the period of the Agreement. You are entitled to cancel the 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 the Agreement.

**"Renewal Period"** means the period for which you have chosen to renew the Agreement. Renewal in a store may incur an additional renewal administration fee.

**"RICA"** means the Regulation of Interception of Communications and Provision of Communication-Related Information Act, 2002, as amended from time to time.

**"Services"** means the electronic communications services including the SIM Card 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, SIM Cards and promotions supplied by Cell C SP 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 Cell C SP for an explanation.

**"Service Suppliers"** means Cell C SP and the Equipment Supplier (in its capacity as supplier of the Equipment and provider of the Services).

**"SIM Card"** is a Subscriber Identity Module, which you receive with the Agreement. The SIM Card is linked to your Cellphone number to allow you to access the Cell C Network.

**"Subscription Fee"** means the monthly subscription charge payable by you in terms of the Agreement. The charges are set out in a Tariff Plan.

**"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 Cell C stores).

**"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.

**"Working Day"** means a day other than a Saturday, a Sunday or a South African public holiday.

**"you" and "your"** refers to the person whose particulars appear on the Application plus your lawful successor or authorised representative (if applicable).

- 2.2. 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.

**3. WHEN DOES THIS AGREEMENT BEGIN?**

- 3.1. By making your Application to use Services and Equipment, you offer to enter into an agreement with the Service Suppliers for the indivisible supply of Services and with the Equipment Supplier for the supply of Equipment.
- 3.2. This Agreement will begin and be binding on you and the Service Suppliers on the earlier to occur of:
  - 3.2.1. the acceptance of your Application for the Services and Equipment; and
  - 3.2.2. the activation of your SIM Card on the Cell C Network so you may use Services together with the Equipment.
- 3.3. If you are renewing your Agreement, the Renewal Period will begin the day after the previous Contract Period has expired, or otherwise directed by Cell C SP. The Renewal Period and the Tariff Plan or Charges applicable will only begin if the renewal is accepted by the Service Suppliers.
- 3.4. 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.

#### 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 that it will continue on a month-to-month basis until the Agreement is cancelled.
- 4.2. Cell C SP may notify you between 40 and 80 Working Days before your Agreement will come to an end of:
  - 4.2.1. the date when the Agreement will end;
  - 4.2.2. any changes that will apply to the Agreement if the Agreement is renewed for a further period or will continue after the expiry of the Agreement. These changes will have to be accepted by you; and
  - 4.2.3. your right to cancel or renew the Agreement. If you don't cancel or renew the Agreement, the Agreement will continue on a month-to-month basis.
- 4.3. You may at any time during the Contract Period or Renewal Period cancel this Agreement, subject to clause 6.3, by giving Cell C SP 20 Working Days' written notice or notice in any other recorded form of your intention to cancel this Agreement. If your Agreement is running on a month-to-month basis, you will still be required to give Cell C SP 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 Card fee, the Connection Fee and an administration fee, on or before the date the Agreement begins. If you are renewing your Agreement, you will not have to pay the Connection Fee or SIM Card fee again, but will need to pay a reasonable administration fee for the processing of your renewed contract;
  - 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 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;
  - 5.1.4. 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;
  - 5.1.5. International Roaming Charges (if applicable, i.e. when 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;
  - 5.1.6. the charges for any additional services which you used, including any applicable postage related charges; plus
  - 5.1.7. 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 and/or contained in the Price List.
- 5.1.8. The Charges may be changed from time to time by means of publishing an amended Tariff Plan and by informing you in writing of these changes. 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.
- 5.2. **Payment in terms of the Agreement must be made to the account indicated by Cell C SP and the payment will discharge your liability to Cell C SP and the Equipment Supplier. Payment must be:**
  - 5.2.1. made on or before the due date set out on the invoice Cell C SP issues to you;
  - 5.2.2. 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;
  - 5.2.3. 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 means previously agreed by the Service Suppliers in writing. If the debit order fails for any reason, the Service Suppliers shall have the right to subsequently use any legal means available (including early debit order facilities) to recover any and all amounts owing, and/or you agree and understand that the Service Suppliers shall have the right to change your selected debit order date on notice to you.
  - 5.2.4. 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 the Service Suppliers 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.]
- 5.3. **Other payment issues**
  - 5.3.1. The Service Suppliers have the option to require you to pay a reasonable refundable amount as a deposit if:
    - 5.3.1.1. Cell C SP activates any SIM Card or any value added services that are supplied to you; or
    - 5.3.1.2. you default on any payment (Cell C SP will give you written notice to pay a deposit if you default on payment).
  - 5.3.2. If the Service Suppliers require you to pay a deposit in terms of clause 5.3.1, 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 Cell C SP's credit vetting rules and procedures and subject to clause 6.1.1.6 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.
  - 5.3.3. 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 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.
  - 5.3.4. 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.

- 5.3.5. 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 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.
- 5.3.6. 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 Cell C SP of the change in terms of clause 20 so that Cell C SP can update its 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. [This means that you must accept any loss that results from you failing to tell Cell C SP of a change of address details.]
- 5.3.7. You agree and understand that Cell C SP will process a debit order payment for the Subscription Fee and Equipment Fee in respect of the first month of the Contract Period and for any applicable Connection Fee or once off SIM card Fee

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

- 6.1. **What happens if you don't pay on time?**
  - 6.1.1. If you do not pay all amounts due on or before the due date for payment then, subject to clause 6.2, Cell C SP will deliver a notice to you and may:
    - 6.1.1.1. oblige you to perform all your obligations in terms of these Agreements;
    - 6.1.1.2. 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;
    - 6.1.1.3. take action in terms of clause 6.2;
    - 6.1.1.4. inform any credit bureau of your payment default;
    - 6.1.1.5. suspend Services;
    - 6.1.1.6. use the deposit amount paid by you in terms of clause 5.3.1 (if applicable) to recover any amounts owing for Services or Equipment;
    - 6.1.1.7. blacklist the Equipment supplied to you in terms of clause 16 of the Agreement; and/or
    - 6.1.1.8. hand-over your account to external debt collection agencies or attorneys for collection.
  - 6.1.2. Cell C SP will notify you before the suspension of Services.
  - 6.1.3. 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 the Agreement, the Service Suppliers have 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 6.1 and 6.2 will apply.
  - 6.1.4. The Service Suppliers are 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 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.
- 6.2. **When may the Service Suppliers cancel the Agreement?**
  - 6.2.1. 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, the Service Suppliers will be entitled to immediately:
    - 6.2.1.1. cancel the Agreement;
    - 6.2.1.2. charge you for the use of Services up to the date of cancellation;
    - 6.2.1.3. charge you all Charges outstanding for any of Services (including your Subscription Fee) which would have continued for the Initial Contract Period or Renewal Period;
    - 6.2.1.4. charge you for the outstanding value of the Equipment supplied to you on the date of cancellation of the Agreement;
    - 6.2.1.5. blacklist the Equipment in terms of clause 16; and/or
    - 6.2.1.6. claim damages.
- 6.3. **What happens if you cancel the Agreement?**
  - 6.3.1. If you cancel the Agreement before the expiry of the Contract Period or the Renewal Period, then you will be liable and undertake to pay on demand:
    - 6.3.1.1. the outstanding value of the Equipment on the date of cancellation of the Agreement;
    - 6.3.1.2. the outstanding Subscription Fees and Usage Charges which have been billed but not yet paid by you; and
    - 6.3.1.3. a reasonable cancellation penalty in respect of any of Services which would have continued for the remaining contract period of the Agreement.

#### 7. WHEN MAY THE SERVICE SUPPLIERS CANCEL OR TRANSFER THE AGREEMENT

- 7.1. 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:
  - 7.1.1. 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;
  - 7.1.2. if Cell C's Licence is cancelled, terminated or amended, or if the Cell C Network remains unavailable for a continuous period of 60 (sixty) days, 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;
  - 7.1.3. 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 Equipment Supplier 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.]

7.2. You will not be charged a cancellation fee if the Agreement is cancelled for any of the reasons set out in clause 7.1, however, you shall remain liable for payment of your Equipment Fee.

7.3. **You agree and understand that if either of the Service Suppliers elect to transfer their rights and obligations under the Agreement to another Electronic Communications Network Provider or Electronic Communications Service Provider then:**

7.3.1. 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 Equipment Fee; and

7.3.2. in order to facilitate the uninterrupted transfer, you agree and request the Service Suppliers, as far as the law allows, to Port your Cellphone number 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.

## 8. SUSPENSION OF SERVICES AND DISCONNECTION OF EQUIPMENT

8.1. **Services may be suspended by disconnecting the Equipment and/or your SIM Card from the Cell C Network, if:**

8.1.1. 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;

8.1.2. you fail to comply with any of the terms and conditions of the Agreement;

8.1.3. you at any time exceed any credit limit or Monthly Usage Limit imposed by Cell C SP; or

8.1.4. you use Services unlawfully, or if you unlawfully tamper with or modify your Equipment or your SIM Card.

8.2. 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, Cell C SP will make reasonable attempts to give you timely notice of such suspension, termination, temporary unavailability or unavoidable delay.

8.3. **You will continue to be liable for payment of your Equipment Fee and Subscription Fee during any suspension period.**

8.4. **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 8.1.2 to 8.1.4 above.**

8.5. You will still be able to call Cell C's emergency response centre free of charge in the event of an emergency.

## 9. SERVICES

9.1. 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.

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

9.3. 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 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;

9.4.3. other causes of radio interference;

9.4.4. the features or functionality of your particular Equipment;

9.4.5. damaged Equipment or SIM Card; or

9.4.6. 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.

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

## 10. SIM CARDS AND EQUIPMENT

10.1. You are responsible for the safekeeping of your Equipment and your SIM Card and you agree to notify Cell C SP immediately if your Equipment and/or SIM Card have been lost or stolen. You accept all risks associated with your Equipment and SIM Card (from the date of delivery).

10.2. Where possible, the Service Suppliers guarantee 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 the Service Suppliers.

10.3. The Equipment Supplier remains the owner of any Equipment supplied to you until the Agreement comes to an end. Where possible the Equipment Supplier guarantees that you shall have undisturbed possession of the Equipment for the duration of the 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.

10.4. 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.

10.5. **The Service Suppliers do not warrant any Equipment, SIM Cards or accessory which has been damaged due to water (including dropping Equipment or SIM Cards in water, damage to Equipment or 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.**

10.6. If your Equipment is faulty, you may return the Equipment to Cell C SP and Cell C SP will, on behalf of the Equipment Supplier, comply with the repairs, replacement and refunds

policies of the Equipment Supplier, subject to the manufacturer specifications and requirements.

10.7. You agree and understand that you may forfeit and lose any applicable warranty if you use another SIM card (other than the SIM Card issued by Cell C SP in terms of this Agreement) in your Equipment.

10.8. **You understand and agree that the Agreement will not come to an end if your Equipment, and/or the SIM Card issued to you are lost, stolen or damaged. You remain liable and must continue to pay all Charges and the Equipment Fee in terms of the Agreement.**

## 11. INCLUSIVE BENEFITS

11.1. Where any Tariff Plan provides for Inclusive Benefits and 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").

11.2. Any unused Inclusive Benefits will expire after the Carry-Over Period.

11.3. 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.

## 12. 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 initial Contract Period and will not apply in the event that: (i) the initial Contract Period has expired and the Agreement is running on a month-to month basis; or (ii) you migrate to another package (other than the package you initially activated); or (iii) the Agreement is renewed or cancelled.

## 13. LIMITATION OF LIABILITY

13.1. **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 whether direct, indirect and/or of a consequential nature including any loss of income and/or loss of profit and/or or loss of anticipated savings suffered by you due to:**

13.1.1. 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;

13.1.2. 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

13.1.3. the Porting of the Cellphone number.

[This clause means that the Service Suppliers and Cell C will not reimburse you for any of your losses if Services are suspended, terminated or unavailable for any reason that you should reasonably expect from that Service, 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.]

## 14. INTELLECTUAL PROPERTY RIGHTS

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

## 15. USE OF YOUR PERSONAL INFORMATION

15.1. You warrant and guarantee that all personal information supplied by you to the Service Suppliers in the Application is true and correct.

15.2. 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 the Service Suppliers.

15.3. **As and when necessary, you consent to the Service Suppliers obtaining, using, storing and/or disclosing your personal information provided to the Service Suppliers as follows:**

15.3.1. to 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 and in order to process any payment transactions necessary for and relative to the Agreement;

15.3.2. to attorneys and/or debt collection agencies if you breach the Agreement;

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

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

15.3.5. for the purposes of the Service Suppliers publishing a directory containing the name, address, details and the applicable Cellphone number of subscribers; and

15.3.6. 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 the Service Suppliers using your private information for all the purposes set out in clauses 15.3.1 to 15.3.6.]

15.4. You are entitled to withdraw your consent for using your personal information under clauses 15.3.5 and 15.3.6 above on written notice or notice in any other recorded form to Cell C SP. In the event you decide to withdraw your consent the Service Suppliers will not be able to use your information for the purposes listed under clauses 15.3.5 and 15.3.6 to the extent that you withdraw your consent from the date your withdrawal notice is received.

15.5. The Service Suppliers will not disclose your personal information to any other person or institution other than as stated under clause 15.3, or where compelled to do so in terms of the Licence and/or any law and/or in terms of a court order.



**16. BLACKLISTING**

16.1. If your SIM Card and/or Equipment are lost or stolen during the Contract Period or any Renewal Period then you must tell Cell C SP immediately so that your interests can be protected, your Equipment blacklisted from further use and/or your Equipment and SIM Card blocked from further use. You will remain liable for all Charges until you have asked Cell C SP to block further use of your SIM Card and/or Equipment. 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 and/or Equipment, but you will continue to be liable for the Equipment Fee and Subscription Fee for the entire Contract Period.

16.2. Cell C SP agrees to blacklist the use of your SIM Card 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, Cell C SP and the Equipment Supplier in respect of any liability, claim, costs or expenses which may be made against Cell C, Cell C SP or the Equipment Supplier by 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 or Equipment you cannot claim any loss from Cell C, Cell C SP or the Equipment Supplier and you must pay Cell C, Cell C SP or the Equipment Supplier any amount they have to pay anyone else because of it.]

16.3. The Service Suppliers may charge you a reasonable fee for the blacklisting in terms of this clause and for the removal of the Equipment from the blacklist.

**17. MOBILE NUMBER PORTABILITY (If applicable)**

17.1. 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.

17.2. 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 the Service Suppliers are not responsible for paying any amounts to the other Electronic Communications Network Provider or Electronic Communications Service Provider.

17.3. 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.

**18. RICA**

18.1. RICA is applicable to Services and the Equipment and to you in terms of this Agreement and:

- 18.1.1. in terms of RICA, the Service Suppliers are required to be satisfied as to your identity which includes getting a copy of your ID and proof of your physical address from you;
- 18.1.2. the Service Suppliers or Cell C will not activate your SIM Card until all your details as required by RICA have been properly registered ;
- 18.1.3. 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;
- 18.1.4. you must immediately report any loss, theft or destruction of your SIM Card and/or Equipment to the police, otherwise you will be committing an offence and will be liable to a fine or imprisonment; and
- 18.1.5. 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.

**19. MONTHLY USAGE LIMIT**

19.1. You understand and agree that the Service Suppliers may, of their own choice and discretion, implement a Monthly Usage Limit, without notice to you.

19.2. 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 Cell C SP's billing cycle.

19.3. 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.

19.4. 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 calls to emergency services numbers namely 140, 112 and for accessing your voice mail box.

19.5. **The Monthly Usage Limit cannot be applied when you are using your Equipment outside the borders of South Africa (also called "international roaming") as 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.**

19.6. **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 Card over and above the Monthly Usage Limit regardless whether or not the Service Suppliers implement the Monthly Usage Limit.**

**20. GENERAL****20.1. Notices**

20.1.1. 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 Cell C SP receives written notification of your change of address.

20.1.2. Cell C SP will deliver certain notices to you by SMS on its own behalf and on behalf of the Equipment Supplier.

20.1.3. Notices that do not negatively affect you, will be delivered and will be considered as received:

- 20.1.3.1. if delivery is by hand, then on the date of delivery;
- 20.1.3.2. if delivery is by fax, then within 24 hours of transmission of the fax;
- 20.1.3.3. 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.

20.1.4. Any legal notices given by Cell C SP 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.

**20.2. Transfer of rights and obligations**

20.2.1. You must not do any of the following at any time without the Service Suppliers' permission and the Service Suppliers will not unreasonably withhold such permission:

- 20.2.1.1. transfer / cede any of your rights under the Agreement to any other entity or person; or
- 20.2.1.2. transfer / delegate or hand-over any of your obligations or responsibilities under the Agreement to any other entity or person.

20.2.2. 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 your permission:

- 20.2.2.1. transfer any rights under the Agreement, to any one or more persons or entities; and/or
- 20.2.2.2. transfer / delegate or hand-over any obligations or responsibilities under the Agreement to any one or more persons or entities.

**20.3. Extensions of time and indulgences**

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 the Agreement.

**20.4. 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.

**20.5. Amendments**

The Service Suppliers are 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's Licence and/or any change in the Tariff Plan or Services. 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 the Agreement, Services and supply of Equipment on [www.cellc.co.za](http://www.cellc.co.za). If you do not agree to the amendments, you may cancel the Agreement subject to the cancellation provisions of the 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.

**20.6. Whole agreement**

Except for the Service Suppliers right to change the Agreement described in clause 20.5 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.

**20.7. 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.

**20.8. Warranty and Indemnity**

**You warrant that you have the necessary rights to enter into the Agreement and you indemnify the Service Suppliers 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.]**

**20.9. 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.

**20.10. Resolving disputes**

20.10.1. You agree and understand that any dispute arising from the Agreement shall be referred to Cell C SP.

20.10.2. 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.

20.10.3. 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.

20.10.4. Nothing in this clause prevents you from taking legal action against the Service Suppliers.