

## **FIRSTNET FIBRE TO THE HOME AND DSL BROADBAND MINIMUM TERMS AND CONDITIONS**

### **1. DEFINITIONS:**

- 1.1. **"Agreement"** means this agreement together with any applicable schedules which shall be deemed to form an integral part of this agreement;
- 1.2. **"Customer"** means the party designated as such in the Service Agreement;
- 1.3. **"FirstNet"** means FirstNet Technology Services (Pty) Ltd (Registration Number: 2006/031608/07) a private company duly incorporated in accordance with the Laws of the Republic of South Africa;
- 1.4. **"Initial Period"** means the initial period for the Service as specified in the Service Agreement;
- 1.5. **"Equipment"** means any hardware or other supplies used in the provision of the Services and as set out in the Service Agreement;
- 1.6. **"Service Agreement"** means each applicable schedule of fees and specifications for the Equipment and Services as agreed to between FirstNet and the Customer;
- 1.7. **"Minimum Monthly Amount"** means the minimum monthly fees payable by the Customer for the Services and Equipment (if any), and as specified in the applicable Service Agreement;
- 1.8. **"Services"** means the Fibre and/or DSL broadband services to be provided by FirstNet to the Customer and as set out in the applicable Service Agreement.
- 1.9. **"last mile provider"** means the entity responsible for the laying of the fibre.

### **2. SERVICE AGREEMENTS**

- 2.1. Where the Customer requires Services from FirstNet, FirstNet and the Customer shall enter into a Service Agreement, which will be governed by, and subject to, the terms and conditions set out in this Agreement;
- 2.2. Each Service Agreement shall endure for the Initial Period, whereafter the Service Agreement shall automatically renew on a month to month basis unless and until terminated on 30 (thirty) days written notice;
- 2.3. The Customer may not terminate a Service Agreement during the Initial Period and FirstNet is entitled to demand, and the Customer is obligated to make payment of, the Minimum Monthly Amount for so long as the Customer receives the Services and at least for the Initial Term;
- 2.4. The Customer shall make payment of the Minimum Monthly Amount (and any additional charges incurred by the Customer) in the manner, and within the period, specified in the Service Agreement, free of deduction or set-off

### **3. THE SERVICES**

- 3.1. FirstNet will be entitled to assume that the fibre or other line provisioned to a Customer is in good working order until such time as the Customer advises FirstNet support of any problems or service breaks.
- 3.2. Any faults or service interruption should be reported via one of the channels available on the FirstNet website.
- 3.3. It shall be the responsibility of the applicable last mile provider to attend to faults reported by the Customer during business hours only. The applicable last mile provider will apply its reasonable endeavors to have the Services restored in the shortest possible time.
- 3.4. If the applicable last-mile provider determines that the fault reported by the customer was caused by the customer, the customer agrees and accepts that it shall be liable for payment of the relevant call-out charge as determined by the last-mile provider from time to time.

### **4. APPLICABLE DOCUMENTS**

- 4.1. The provision of the Services may be subject to additional terms and conditions, which are available from FirstNet on request.
- 4.2. The following legal documents will apply to the provision of the Services and are binding on every person making use of the Services:
  - 4.2.1. FirstNet's Acceptable Use Policy (AUP), available from [www.firstnet.co.za](http://www.firstnet.co.za) ;
  - 4.2.2. Each last mile provider's Standard Terms and Conditions for the provision of Services.
    - 4.2.2.1. Vumatel [Standard Terms and Conditions](#);
    - 4.2.2.2. OpenServe [Standard Terms and Conditions](#)
- 4.3. Customers and potential customer are encouraged to familiarise themselves with the content of these documents, which are incorporated by reference into this Agreement.

### **5. SERVICE AVAILABILITY AND CONFIRMATION OF SERVICE AVAILABILITY**

- 5.1. The availability of the Services are subject to a valid and operational last mile provider service being available.
- 5.2. Potential customers should confirm the availability of the last-mile provider service in their particular location prior to purchasing or ordering any service or equipment from FirstNet.
- 5.3. The Customer will be advised after receipt of an order as to whether the relevant Service can be provided, and should FirstNet decide (in its sole discretion) that the Service cannot be provided, the Customer expressly accepts that FirstNet will have no liability to the Customer in this regard.
- 5.4. Whilst FirstNet will comply with and meet the Service Level Agreements and use its best endeavors to ensure that the services and any CPE are operational at all times, FirstNet does not warrant that the services will be operational on a 24 (twenty four) hour 365 (three hundred and sixty five) days per year basis, this being due to the nature of the telecommunications industry and the network, which is dependent on the actions and/or input of a number of independent 3rd parties whom FirstNet has no direct control over.

## **6. SERVICE CREDIT**

- 6.1. If the Customer wishes to make a claim for service downtime, the Customer must log a dispute with FirstNet, who will take the matter up with the relevant last mile provider. Any refund will be made to the Customer by FirstNet, which has sole discretion whether to accept the Customer's claim. Such credit will exclude any claims for Slow Access, Intermittent Service and any other fault type except No Service faults.
- 6.2. The calculation of time periods for the purpose of calculating any service credit shall only commence upon the reporting of any fault to the FirstNet support team.

## **7. CANCELLATIONS**

- 7.1. Cancellation of any Service (including Line rental) is the Customer's responsibility. The Customer is responsible for ensuring that such cancellation of Service is actioned with due attention to terms of cancellation, as well as cancellation conditions which require the Customer to specifically indicate a required process. Should the Customer incorrectly complete the cancellation process, FirstNet will not be liable for any additional costs or compensation to the Customer due to the error.

## **8. AMENDMENTS**

- 8.1. FirstNet may update, amend, or replace these terms and conditions at its discretion and without notice, by publishing any such terms and conditions on its website.
- 8.2. The last mile provider's Standard Terms and Conditions for the provision of services also apply to the Services, and may change from time to time. The Customer is obliged to check for changes to such terms.

## **9. MONITORING OF USAGE**

- 9.1. FirstNet monitors its systems for performance and accounting purposes. The information gained thereby and by any other means may be used to ensure compliance with the Service terms and FirstNet's Acceptable Use Policy.

## **10. IDENTITY VERIFICATION REQUIREMENTS (RICA)**

- 10.1. Use of the Services is subject to ID verification and / or proof of address, required by RICA (the Regulation of Interception of Communication Act of 2009). Customers are required to email, fax or upload the relevant documents;
  - 10.1.1. a full coloured, clear, legible copy of their valid Identity Document or Driver's License.
  - 10.1.2. Non-South African citizens may submit a copy of their valid Passport or International Driver's License.
- 10.2. Verification documents must contain photo identification.
- 10.3. Failure to produce ID verification for an account will result in the product not being activated, regardless of any pro-rata amounts billed.
- 10.4. Should the Customer cancel all current valid FirstNet Services, ID verification will be required to sign up for new Services. ID verification will not be requested as long as verified FirstNet Services remain active.
- 10.5. The Customer expressly consents to FirstNet conducting enquiries with credit bureaus for the purposes of determining the Customer's creditworthiness.

## **11. LIMITATION OF LIABILITY AND INDEMNITY**

- 11.1. The Customer hereby indemnifies FirstNet and holds FirstNet harmless against any claim made by third parties arising directly or indirectly out of the Customer's access to, or use of, the Services or any information obtained through the Services;
- 11.2. Save as set out in this Agreement, FirstNet makes no representations, warranties, or guarantees of any nature in respect to the Services. All warranties that are implied or residual in common law are hereby expressly excluded;
- 11.3. FirstNet accepts no liability for any loss or damage to the property or equipment of the Customer or any third party arising out of the provision, installation or maintenance of the Services.
- 11.4. Application for, use of, and subscription to the services is at the sole risk of the customer.

## **12. EQUIPMENT**

- 12.1. All hardware provided by last-mile providers will remain property of said last-mile provider into perpetuity.
- 12.2. Should a Customer cancel their Services and not migrate to another ISP on the same last-mile provider, they will be required to return the modem of the last-mile provider as the hardware is provider specific.
- 12.3. Wi-Fi routers provided by FirstNet will remain the property of the Customer upon cancellation (subject to expiration of the Initial Period and payment of all outstanding fees). Wi-Fi routers can be re-used when switching providers and as such do not need to be returned to FirstNet.

## **13. INSTALLATION OF FIBRE AND CPE**

- 13.1. The Installation Fee is inclusive of the required Fibre Line and CPE and is charged for over and above the activation fee.
- 13.2. The last mile provider shall install the connections required for the use of the Fibre Line and the CPE at the Customer's premises against payment of the relevant Installation Fees as quoted by the last mile provider.
- 13.3. The last mile provider shall make reasonable endeavors to meet the Installation date as requested by the Customer. However, gives no undertakings that it will be able to meet any Installation Date requested by the Customer, the Customer accepting that the last mile provider will install the Fibre Line and CPE when it is in a position to do so, which will depend on the availability of equipment and service providers or contractors, whatever the case may be.
- 13.4. If the Customer fails to make him/herself available for the Installation date and confirmed time and fails to notify FirstNet at least 48 hours in advance, of their unavailability, FirstNet reserves the right to charge a "No Show" Cancellation fee. The "No Show" Cancellation Fee will be added to the Installation invoice after the installation is completed.

- 13.5. If the Customer is not the owner of the premises where the Fibre Line and the CPE is to be installed, the Customer must prior to any installation by the last mile provider , obtain permission from the owner of the premises for the installation and the Customer indemnifies FirstNet against damages or claims resulting from the failure to obtain such permission including all and any costs which may have to be incurred by FirstNet should FirstNet have to remove the CPE and/or Fibre Line from the premises.

**14. CHANGE OF PREMISES**

- 14.1. If the customer decides to move and/or relocate to a different location and/or premises, the last mile provider shall, provided the new location is in an area, where the last mile provider operates and subject to the provisions of this agreement move the Customer's Fibre Line and CPE to the new premises and/or location in which case the Installation Fees will be payable.

**15. GENERAL**

- 15.1. The Customer acknowledges that it does not enter into this Agreement on the basis of and does not rely on any representation, warranty or other provision, whether express or implied, except as expressly provided in this Agreement. All conditions, warranties or other terms implied by statute or common law are excluded to the fullest extent permitted by the law of the Republic of South Africa.
- 15.2. The Customer warrants that it is acting as principal and not as agent for any other person, whether disclosed or otherwise.
- 15.3. This Agreement shall be governed by, construed and interpreted in accordance with the laws of the Republic of South Africa and the South African courts shall have exclusive jurisdiction.
- 15.4. The Customer shall be liable for all costs incurred by FirstNet in the recovery of any amounts or the enforcement of any rights which it has hereunder, including collection charges and costs on an attorney and own client scale and costs of counsel, whether incurred prior to or during the institution of legal proceedings or if judgment has been granted, in connection with the satisfaction or enforcement of such judgement
- 15.5. The Customer shall pay interest on all amounts owing by the Customer to FirstNet which have not been paid on the due date thereof, at the maximum permitted rate as published from time to time in the Prescribed Rate of Interest Act of 55 of 1975, as amended.
- 15.6. The Customer shall not be entitled to cede or assign and of its rights and obligations in terms of this Agreement to any third party without the express prior written consent of FirstNet. FirstNet shall be entitled to cede and assign its rights and obligations in terms of this Agreement without the consent of the Customer and without notice.