

BSSC STANDARD TERMS AND CONDITIONS

1. DEFINITIONS

For purposes of these Conditions, unless the context indicates otherwise, the words and expressions set out below shall have the meanings assigned to them and cognate expressions shall have a corresponding meaning, namely:

1.1.	<i>“Acceptable Use Policy”</i>	the acceptable use policy of Blue Sky Telecom from time to time which forms part of the Conditions;
1.2.	<i>“Affiliates”</i>	the directors, managers, shareholders or members, agents, representatives, holding companies and subsidiary companies (as those terms are defined in the Companies Act, 2008) of Blue Sky Telecom;
1.3.	<i>“Applicable Laws”</i>	all applicable laws and regulations in the RSA and/or internationally, as the case may be;
1.4.	<i>“Application Form”</i>	the Blue Sky Telecom application form and / or email request, completed by the Customer setting out the services which the Customer wishes to purchase from Blue Sky Telecom (for example, Fibre-To-The-Home internet);
1.5.	<i>“Business Customer”</i>	a Customer that: 1.5.1. is a juristic person; and 1.5.2. operates with more than 5 registered employees; and/or 1.5.3. has requested business-specific services to be rendered by Blue Sky Telecom to it;
1.6.	<i>“Conditions”</i>	these terms and conditions for the provision and use of the Services (including all rules, policies, procedures, and notices applicable thereto) which are set out in this document and which may be amended by Blue Sky Telecom from time to time without notice to any third party or user;
1.7.	<i>“Blue Sky Telecom Infrastructure”</i>	the network and systems of Blue Sky Telecom used to provide services to its customers and users;
1.8.	<i>“Blue Sky Telecom”</i>	Blue Sky Telecom CC, a close corporation with registration number 1998/026831/23 incorporated under the laws of the RSA;
1.9.	<i>“CPA”</i>	the Consumer Protection Act, 2008;

1.10.	“Customer Premises”	the address provided by the Customer in the Application Form for purposes of installing the Equipment and at which the Services will be utilised;
1.11.	“Customer Zone”	Customer portal where invoices and services can be maintained. https://Coolzone.cisp.co.za ;
1.12.	“Customer”	<p>the person who will be liable for compliance with the Conditions and who:</p> <p>1.12.1. has applied for the Services (using an Application Form or otherwise); and/or</p> <p>1.12.2. Blue Sky Telecom has agreed to provide the Services to; and/or</p> <p>1.12.3. will be liable for the payment of the Fees; and/or</p> <p>1.12.4. makes use of the Services;</p>
1.13.	“Equipment”	the equipment (being moveable property) specified in the Application Form and supplied by Blue Sky Telecom to the Customer on the basis of a loan, rental or otherwise, to enable the Customer to utilise the Services;
1.14.	“Fees”	the fee payable by the Customer to Blue Sky Telecom in consideration for the provision of the Services;
1.15.	“Invoice Date”	the date on which Blue Sky Telecom issues the Invoice to the Customer (which date is reflected on the Invoice), being the date specified by the Customer in the Application Form;
1.16.	“Invoice”	the invoice issued by Blue Sky Telecom to the Customer setting out the Fees (which may include an itemised bill on request or where this is specified as part of the Services provided to the Customer);
1.17.	“Parties”	the Customer and Blue Sky Telecom (or any one of them as the context requires);
1.18.	“Prime Rate”	the prime interest rate charged from time to time by Blue Sky Telecom’ commercial bankers to its most favoured corporate customers in respect of unsecured overdraft draft facilities;
1.19.	“RSA”	the Republic of South Africa;
1.20.	“Services”	the service/s provided by Blue Sky Telecom to the Customer as per the Application Form, including all

		software and Equipment necessary for the provision of the Service/s;
1.21.	“VAT”	value-added tax as defined in the Value-Added Tax Act, 1991;

- All monetary amount in these Conditions are exclusive of VAT, unless otherwise stated.
- In circumstances of the CPA being applicable to these Conditions, the provisions of the CPA will prevail in the event of a conflict between any provision of the Conditions and the provisions of the CPA.

2. INTRODUCTION

- These Conditions set out the terms and conditions in terms of which Blue Sky Telecom will provide the Services to the Customer and constitutes a binding agreement between Blue Sky Telecom and the Customer as set out in clause 1 below.
- Blue Sky Telecom is entitled to amend these Conditions from time to time and will place the amended Conditions on the Blue Sky Telecom website (www.cisp.co.za) which amendment will bind the Customer from the date that the amendment has been published on the Blue Sky Telecom website.

3. DURATION

- The Customer accepts and agrees that these Conditions will become binding on it once Blue Sky Telecom has processed the Application Form and agreed to provide the Customer with the Services.
- These Conditions will continue to be binding on the Customer in respect of:
 - Residential Fibre Internet Services, on a month to month basis or
 - Business Fibre Internet Services, on a contractual basis or
 - webhosting and/or domain registration services, on a 12 monthly basis, or
 - all other services, on a month to month basis; or

until such time as the Services are cancelled in accordance with clause 13.

4. PAYMENT

- General
 - Blue Sky Telecom will provide the Customer with a monthly Invoice on the Invoice Date.
 - Unless the Customer notifies Blue Sky Telecom in writing (at accounts@blueskysat.com) within 3 days of receipt of an Invoice to the contrary, the contents of such Invoice will be deemed to be correct and will not be disputable.
 - The Fees must be paid by the Customer in full, without deduction or set off and free of bank charges on the Invoice Date, unless agreed otherwise by Blue Sky Telecom in writing or unless the Invoice has been submitted as a dispute in terms of clause 1 (subject to clause 4.1.2.).
 - Pre-paid services are billed as per the advertised prices on the Gaia-Net Portal. Prices are exclusive of VAT
- Unpaid Fees and Credit Limits
 - Should the Customer fail to make payment of the Fees in terms of clause 1.3:
 - interest on any unpaid and outstanding Fees will accrue on a monthly basis at a rate of 2% above Prime Rate until the Fees are paid in full;

- Blue Sky Telecom will be entitled to cease supplying current Services to the Customer and/or refuse the supply of new services to the Customer until such time as it receives payment in full of the outstanding amounts (including any interest accrued thereon);
- for a period of more than 30 days from the Invoice Date, Blue Sky Telecom may submit the outstanding Invoice/s to a collections agency/firm. In the event of the Invoice/s being handed over to an outside collection agency, any costs incurred by Blue Sky Telecom in the collection process will be for the Customer's account;
- Blue Sky Telecom may place a "non-payment" page on the Customer's domain (if webhosting forms part of the Services) and the DNS of the Customer's domain will remain unchanged until such time as Blue Sky Telecom receives payment in full of the outstanding amounts (including any interest accrued thereon);
- for a period of more than 30 days from the Invoice Date, Blue Sky Telecom will cancel the fibre internet connection to the Customer within [**10 days**] of delivering to the Customer a written notice to that effect.
- In respect of a Customer making use of the Blue Sky Telecom VOIP services, residential and business VOIP customers will have a R200 and R1000 default credit limit per month respectively, to avoid unauthorised usage and charges on the account.
- In order to increase or decrease the default credit limit, the Customer must submit a written request to that effect to info@blueskysat.com.
- If your line has been suspended due to non-payment you are still liable for the line fee for the months the line is suspended. Should you wish to cancel the billing you will need to send a cancellation request to our accounts department info@blueskysat.com. Should you wish to reconnect the cancelled services you will be charged a re-connection fee depending on the Fibre network you are connecting to. The reconnect fee will need to be paid before we can reconnect your services.
- Methods of Payment
 - The Customer may only pay the Fees by means of a debit order (<https://sagepay.co.za/>), or by using a credit card (only MasterCard and VISA are acceptable), or an instant electronic funds transfer (EFT), or through PayFast (<https://www.payfast.co.za/>).
 - A processing fee of R50.00 (including VAT) will be charged on all returned debit orders.
 - If the preferred method of payment by the Customer is EFT, it is the sole responsibility of the Customer to ensure that all payments are made using the correct beneficiary reference as indicated on the Invoice. Failure to comply may result in an incorrect allocation of the payment which may cause service disruption as a result of the account being suspended due to non-payment.
 - For purposes of payment by credit card, the merchant outlet country at the time of presenting payment options to the cardholder is the RSA and the transaction currency is South African Rand (ZAR).
- Fee Increases

The Customer acknowledges and agrees that Blue Sky Telecom will be entitled, on 30 days' written notice to the Customer, to increase the Fees payable by the customer in circumstances of the direct costs to Blue Sky Telecom in providing the Services (including, without limitation, the charges

charged by the network provider(s) in respect of such services) being increased. The increases to the Fees shall be commensurate with the increased costs of providing the Services.

- Refunds

- Blue Sky Telecom will not credit any customer because of Fibre downtime caused by maintenance on a fibre line, break in connection, power failures, slow speeds caused by FNO's network, load shedding or any reason caused by third parties.
- All Blue Sky Telecom webhosting plans come with a 30-day money back guarantee. If the Customer is not completely satisfied with the Blue Sky Telecom webhosting service within the first 30 days, and has provided Blue Sky Telecom with a written notice thereof, the Customer will be given a refund of the contract amount excluding setup fees (if any) and overages, provided that such contract amount has already been paid to Blue Sky Telecom. Fees and costs in relation to domain registrations, Domain renewals, domain ID protection and dedicated servers are not refundable.
- Blue Sky Telecom will process authorised refunds to customers each Friday.

- Reconciliation or Historical Information

- The Customer may request a reconciliation of its account, by submitting a request in writing to accounts@cisp.co.za.
- If the reconciliation proves the balance of the account to be accurate (within a 5% margin), a once off charge of R150.00 per reconciliation will be applied to the Customer's next Invoice.
- If the Customer requests historical information that is made available to the Customer on a monthly basis via the Customer Zone, DSL console, your Hosting control panel or any of the management interfaces provided to the Customer, a once off administration charge of R150.00 per request will be applied to the Customer's next Invoice.

5. SERVICES AND EQUIPMENT

- General

- Blue Sky Telecom provides the Services to the Customer in terms of the Conditions.
- All Services are provided to the Customer on a month to month basis (except for domain registration services which are provided on an annual basis), and will automatically renew at the end of each month (or year, as the case may be) unless cancelled by the Customer in accordance with these Conditions.

- Equipment

- Blue Sky Telecom will supply equipment at the Customer Premises, however, ownership of the Equipment will remain vested in Blue Sky Telecom unless:
 - Blue Sky Telecom and the Customer have agreed otherwise in writing; or
 - the Customer has purchased the Equipment from Blue Sky Telecom and paid to Blue Sky Telecom the purchase price of such Equipment in full.
- Without limiting the generality of clause 2.1, it is noted that the Customer will be supplied with a complimentary Gigabit router if the Services include a 1000/100Mbps Uncapped Fibre package. Upon cancellation or downgrade of such a 1000/100Mbps Fibre package to a lower speed, Blue Sky Telecom will arrange collection of the Gigabit router from the Customer and supply the Customer with an entry level Dual Band router as an alternative.
- Blue Sky Telecom will maintain the Equipment (excluding Equipment in terms of clauses 2.1.1 and 5.2.1.2) at its own cost, provided that the Customer will be liable to

Blue Sky Telecom for any damage, destruction or theft of the Equipment which damage, destruction or theft is attributable to the Customer's acts or omissions.

- Blue Sky Telecom has the right to inspect the Equipment at all reasonable times during the currency of the Conditions and to remove the Equipment on termination of these Conditions for any reason.
- Other than the Equipment, Blue Sky Telecom will not be liable for the maintenance of any equipment provided by or on behalf of the Customer and/or whether utilized in conjunction with the Services.
- Remote Support / Support Services
 - For any remote assistance, the customer needs to call Blue Sky Telecom call centre or open a ticket via support@blueskysat.com

6. WEBHOSTING AND DOMAIN REGISTRATION

- Domains and webhosting packages requested by the Customer will not be registered until payment has been received in full.
- Only .co.za domains are eligible for free registration with a webhosting package.
- A customer is only eligible for a free domain registration for the first year of domain registration.
- Domain transfers are ineligible for free registration with our webhosting package special.
- A webhosting package coupled with a free domain registration must be active for a minimum of 6 months, failing which the Customer will be liable for the annual registration fee of the domain.
- Blue Sky Telecom offers domain registration and hosting as a reseller of said services, and accordingly:
 - Blue Sky Telecom is only responsible to provide the Customer with support in relation to the service of the domain registration and hosting, not the management of said services as these services are provided by third parties.
 - certain queries can only be resolved with the help of the original service provider and may be delayed due to this process.
- Blue Sky Telecom is not responsible for the security and management of the Customer's hosted website, emails, FTP, and so forth. The Customer must consult an IT professional for any security management and setup of the services included in the hosting services offered by Blue Sky Telecom.
- Any data hosted by the Customer is not the responsibility of Blue Sky Telecom.

7. PASSWORDS, IP ADDRESSES AND ACCOUNT HOLDER DETAILS

- The Customer is responsible for maintaining the confidentiality of its password and other related sensitive information for its user account. In the event of a breach of security through the Customer's account, the Customer will be liable for any unauthorized use of Blue Sky Telecom Infrastructure and Services, including any damages resulting there from, until the Customer notifies Blue Sky Telecom customer service of such a breach and Blue Sky Telecom has been able to rectify the breach.
- The Customer will be liable for any additional costs incurred by Blue Sky Telecom due to poor passwords or other credentials of the Customer in relation to the Customer's user account (for example: blank passwords or "test" accounts).
- If Blue Sky Telecom assigns the Customer an Internet Protocol address in connection with its use of the Blue Sky Telecom Infrastructure and/or Services, the ownership of and right to use that Internet Protocol address will remain with and belong only to Blue Sky

Telecom, and the Customer will have no right to use that Internet Protocol address except as allowed by Blue Sky Telecom in its sole and absolute discretion.

8. LIMITATION AND VARIATION OF SERVICES

- General Limitations and Variations
 - The Customer acknowledges and agrees that:
 - Blue Sky Telecom may establish limits in relation to the use of the Services and/or any other Blue Sky Telecom service offered on any Blue Sky Telecom web site, including without limitation the maximum number of days that e-mail messages will be retained by any Blue Sky Telecom service, the maximum number of e-mail messages that may be sent from or received by an account on any Blue Sky Telecom service, the maximum size of an e-mail message that may be sent from or received by an account on any Blue Sky Telecom service, the maximum disk space that will be allotted on Blue Sky Telecom servers on behalf of the Customer (either cumulatively or for any particular service);
 - Blue Sky Telecom has no responsibility for and/or is not liable for the deletion, corruption or failure to store any messages or other content maintained or transmitted by any Blue Sky Telecom service;
 - the features, parameters (for example, the amount of storage available to users) or existence of any Blue Sky Telecom service may change at any time and Blue Sky Telecom endeavours to notify the Customer if any such changes will affect it;
 - Blue Sky Telecom reserves the right to select the server for the Customer's website (if any) for best performance;
 - the Services provided by Blue Sky Telecom are provided on a shared server and accordingly, one website cannot be permitted to overwhelm the server with heavy CPU usage (for example from the use of highly active CGI scripts or chat scripts). If the Customer's website (if any) overwhelms the server and causes complaints from other users, the Customer must relocate its website. If the Customer refuses to comply with this clause 1.1.5, then Blue Sky Telecom has the right to terminate the Services without refunding the unused portion of the Fees prepaid by the Customer.
- Reliance on Third Parties
 - Whilst Blue Sky Telecom operates the Blue Sky Telecom Infrastructure, Blue Sky Telecom hereby advises the Customer that Blue Sky Telecom does not operate in isolation but relies on certain services, equipment and/or infrastructure which are provided by a number of third parties who provide separate but interrelated and connected services which as a whole, allows the Blue Sky Telecom Infrastructure to function. These third parties operate as independent service providers who are not necessarily contracted by Blue Sky Telecom and the Customer accepts and acknowledges this fact.
 - Whilst Blue Sky Telecom will use its best endeavours to ensure that the Services are operational at all times, Blue Sky Telecom does not (and cannot) warrant that the Services will be operational on a 24 hour / 365 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 third parties whom Blue Sky Telecom has no direct control over. Accordingly, Blue Sky Telecom will not be liable for nor will it reimburse the Customer for any Fees paid or costs incurred by the Customer for Services which have been interrupted / non-operational for any period of time due to the failure of any third party

operations and/or services and/or equipment and/or infrastructure (irrespective of whether Blue Sky Telecom has entered into a service level agreement with such third party).

- Notwithstanding the provisions of this clause 2, Blue Sky Telecom will use its best endeavours to notify the Customer in advance of any failure of, or interruption to the Services, and where applicable any required maintenance and repairs which may result from such failure, interruption or unavailability, where Blue Sky Telecom is in a position to do so.

9. UPGRADES AND DOWNGRADES

- A downgrade occurs when the Customer changes its current package to a package with a lower cost, for example: changing from a Home Uncapped 20/2Mbps account at R809 to a Home Uncapped 10/2Mbps account at R649 would be considered a downgrade. An upgrade would be the opposite of a downgrade.
- The upgrade and downgrade on Pre-paid can take place on a weekly basis.
- Upgrades or downgrades must be done using the Customer Zone found on the Blue Sky Telecom website. The Customer must contact Blue Sky Telecom to establish the lead time for such an upgrade or downgrade via info@blueskysat.com
- The Customer must notify Blue Sky Telecom of downgrades or upgrades on or before the 20th of each month, in order for the downgrade or upgrade to take effect from the first day of the next month. Until such time as the downgrade or upgrade is effected by Blue Sky Telecom, the Customer will continue to be charged for the rate of the existing package.

10. INDEMNITY AND LIMITATION OF LIABILITY

- The Customer agrees to indemnify Blue Sky Telecom (and its Affiliates) and at all times keep it indemnified against all losses, claims, expenses, damages, liabilities, actions demands, proceedings and judgements whatsoever in relation to or arising directly or indirectly out of the provision by Blue Sky Telecom of the Services, and the Customer will reimburse Blue Sky Telecom from time to time for all costs and expenses (including legal and other professional fees) that Blue Sky Telecom may reasonably incur in connection with investigating, preparing or defending any such action or claim, whether or not in connection with pending or threatened or actual litigation or arbitration in which Blue Sky Telecom is a party and whether or not resulting in any liability on its part, except to the extent that such action or claim is found in final judgement to be the direct result of Blue Sky Telecom' fraud, gross negligence or breach of these Conditions.
- Subject to the provisions of the CPA to the extent that the CPA is applicable to these Conditions and to the Customer, Blue Sky Telecom will not be liable to the Customer, or any third party claiming through or on behalf of the Customer, in respect of any claim whatsoever, whether in contract, delict or otherwise, for any loss, damages, costs or expenses directly or indirectly incurred as a result of the provision by Blue Sky Telecom of the Services, except to the extent that such losses, damages, costs or expenses incurred by the Customer are found in final judgement to be the direct result of fraud, gross negligence or breach of these Conditions by Blue Sky Telecom. In these or any other circumstances, the maximum amount of the liability of Blue Sky Telecom in respect of such losses, damages, costs or expenses will be limited to the amount of Fees that have been paid to Blue Sky Telecom by or on behalf of the Customer in connection with the Services.
- Without limiting the generality of clause 2, Blue Sky Telecom will not (other than in circumstances of the gross negligence or fraudulent intent of Blue Sky Telecom) be liable for any damage or loss suffered by the Customer caused by and/or attributable to:

- the Services being interrupted, suspended or terminated, for whatsoever reason; and/or
- communications not being sent and/or received and/or transmitted timeously or at all for any reason whatsoever; and/or
- circumstances that constitute a force majeure event (as contemplated in clause 12); and/or
- the Customer's failure to perform its obligations under these Conditions; and/or
- changes made to the Customer's operating environment which were not communicated to Blue Sky Telecom; and/or
- a power failure or power interruptions at any site from where the Services or any component of the Services are rendered; and/or
- any failure or delay by the Customer to report problems or queries to Blue Sky Telecom' call centre and/or
- the server and/or equipment of any recipient party being non-functioning for any reason whatsoever; and/or
- the failure of any hardware, software programme, operating system, application/s, networks, telecommunication lines and/or any other computer system (or any component thereof) of any third party on whom the supplier and/or the customer relies (whether directly or indirectly) to supply and/or receive, as the case may be the services;
- the unavailability of Blue Sky Telecom website for any reason whatever; and/or
- the Customer using the Service for any unlawful, improper or immoral purpose; and/or
- the unlawful or fraudulent accessing by a third party of the Customer's telecommunication lines, PBX or other telecommunication equipment.

11. WARRANTIES

Subject to any warranties that may be implied by the CPA to the extent that the CPA is applicable to these Conditions and the Customer, Blue Sky Telecom does not, make any representations nor, give any warranty or guarantee of any nature whatsoever, whether express or implied, in respect of the Services or the Equipment including but not limited to implied warranties of merchantability and fitness or suitability for any intended purpose, nor that the Services will be error-free, secure or uninterrupted.

12. FORCE MAJEURE

- Blue Sky Telecom will not be liable for any delay in performing or any failure to perform any of its obligations in terms of the Conditions due to any cause beyond its reasonable control.
- Upon the occurrence of any delay or failure referred to in this clause 12, the provisions of the Conditions which are affected shall be suspended for as long as the cause in question continues to operate, provided that if the delay or failure referred to in this clause 12, has not ceased to operate within a period of 3 months from the date upon which it arose, the Services may by way of notice in writing be cancelled by either Party.

13. CANCELLATION

- Should Blue Sky Telecom commit a breach of any of the provisions of these Conditions and fail to remedy that breach within 7 business days after receipt from the Customer of written notice calling upon it so to do, then the Customer will be entitled to either:
 - enforce specific performance of the terms hereof; or

- cancel the Services with effect from the beginning of the following calendar month and recover such damages as it may have sustained, subject to the provisions of clause 2.
- In addition to any other cancellation rights which the Customer may have in these Conditions, the Customer may cancel the Services at any time provided that they provide Blue Sky Telecom with one full calendar month's notification – in such circumstances, the Services will be cancelled with effect from the last day of the month during which the 30 day notice period expires.
- The Customer will be liable for the full cost of the domain registration price if the Customer cancels the free domain registration service within the first 12 months.
- The Customer will be liable for the full cost of any Fibre line ordered by completing the Application Form and then cancelling such Application Form after 7 days of its submission and before installation.
- Customers must notify the accounts department of a cancellation request in writing by emailing support@blueskysat.com
- In addition to any other cancellation rights which Blue Sky Telecom may have in these Conditions, if the Customer breaches any term of these Conditions including any failure to pay Blue Sky Telecom any monies on due date, and fail to remedy that breach within 7 business days after receipt from Blue Sky Telecom of written notice calling upon it so to do, then Blue Sky Telecom will be entitled without prejudice to any right it may have as a result of that breach, cancel these Conditions and cease providing the Services to the Customer – this remedy will not be exhaustive and will be in addition and without prejudice to any others Blue Sky Telecom may have under or in consequence of these Conditions.
- If an application for business rescue proceedings or liquidation is filed by or against the Customer, or if the customer is sequestrated, liquidated, goes out of business or announces intention to do so, Blue Sky Telecom will be entitled to immediately cancel these Conditions and terminate current Services to the Customer, upon notice to the Customer.
- If the supply of the Services is terminated in accordance with this clause 13, the full outstanding balance of the Customer becomes due and payable immediately.

14. DISPUTE RESOLUTION

- Any dispute between the Parties in regard to any matter arising out of any Invoice and/or these Conditions or their interpretation or their respective rights and obligations arising thereunder or their cancellation or any matter arising out of their cancellation, must first be (attempted to be) resolved by the Customer and a manager of Blue Sky Telecom in accordance with the following procedure:
 - the Customer must submit to complaints@blueskysat.com a written complaint / dispute setting out the Customer's full particulars, contact details, customer reference number, relationship with Blue Sky Telecom, statement of reasons for the complaint / dispute and any relevant evidence or supporting documentation;
 - Blue Sky Telecom must:
 - acknowledge receipt of the complaint / dispute within 3 business days of its submission by the Customer; and
 - determine the outcome of the complaint / dispute, and communicate this result to the Customer within 14 business days of the above acknowledgement.
 - Blue Sky Telecom will not entertain any dispute / complaint in respect of an Invoice or Fees based on unauthorised use of the Services, it being the Customer's

responsibility to safeguard access to the Services which it receives and to use the Services in the manner set out in these Conditions.

- Should any disputed overages be accurate (within a 5% margin), a once of charge of R150 (excluding VAT) per domain server will be applied to your account.
- If the Customer is not satisfied with the outcome in clause 1.2.2, then the complaint / dispute will be submitted to and determined by arbitration. Such arbitration will be held in Johannesburg unless otherwise agreed to between the Parties in writing and will be held in a summary manner with a view to the proceedings being completed as soon as possible.
- There will be 1 arbitrator whose appointment will be agreed upon between the Parties, but failing agreement between them within a period of 10 Business Days after the arbitration has been demanded, either of the Parties will be entitled to request the chairperson for the time being of the Johannesburg Bar Council to make the appointment who, in making his appointment, will have regard to the nature of the dispute.
- The decision of the arbitrator will be final and binding on the Parties, and may be made an order of any court of competent jurisdiction.
- Each of the Parties hereby submits itself to the jurisdiction of the Gauteng Local Division of the High Court of South Africa, Johannesburg should the other Party wish to make the arbitrator's decision an order of that Court.

15. CONFIDENTIALITY

Blue Sky Telecom will keep all information supplied to, or acquired by it in connection with any order in terms of these Conditions strictly confidential, shall not use such information or any part thereof for any purpose other than permitted under these Conditions.

16. NOTICES

- Notices required by these Conditions shall be in writing and will be delivered in the manner prescribed, failing which either by personal delivery, fax or by email. If delivered by mail, notices shall be sent by any express mail service; or by certified or registered mail, return receipt requested, with all postage and charges prepaid, and shall be deemed to have been received on the 5th business day after posting. Emails and faxes will be deemed to be received on the business day they are sent if sent before 16h00 on that day or on the next business day thereafter is sent after 16h00 on a business day or if sent on a non-business day.

17. PERSONAL INFORMATION

- By requesting and utilising the Services, the Customer consents to:
 - Blue Sky Telecom recording and storing, in a secure manner, the Customer's personal details for record-keeping purposes and in order to comply with its obligation in terms of these Conditions;
 - Blue Sky Telecom providing the Customer's personal details to any law enforcement agencies upon it being requested to do so;
 - Blue Sky Telecom using location based services for any lawful or third party service;
 - Cookies being stored to provide customized services (if any);
 - certificates being stored;
 - Blue Sky Telecom, third party vendors / partners redirecting the Customer to third party vendor payment processing partners; and

- Blue Sky Telecom making the Customer's personal information available to its Affiliates, provided that such personal information will not be provided to or sold to any third parties which are not Affiliates of Blue Sky Telecom without the prior written consent of the Customer.

18. GENERAL

- The Customer will not be entitled to assign, cede, delegate or transfer any rights, obligations, share or interest acquired in terms of the Conditions and/or the Services, in whole or in part, to any other party or person without the prior written consent of Blue Sky Telecom.
- No Party will have any claim or right of action arising from any undertaking, representation or warranty not included in these Conditions.
- No extension of time, relaxation or indulgence granted by Blue Sky Telecom to the Customer will be deemed to be a waiver or tacit amendment of Blue Sky Telecom' or the Customer's rights in terms hereof, nor will any such relaxation or indulgence be deemed to be a novation or waiver of the terms and conditions of these Conditions.
- Each of the provisions of these Conditions will be considered as separate terms and conditions and in the event that these Conditions are affected by any legislation or any amendment thereto, or if the provisions herein contained are by virtue of that legislation or otherwise, held to be illegal, invalid, prohibited or unenforceable, then any such provisions shall be ineffective only to the extent of the illegality, invalidity, prohibition or unenforceability and each of the remaining provisions hereof shall remain in full force and effect as if the illegal, invalid, prohibited or unenforceable provision was not a part hereof.
- All costs, charges and expenses of any nature whatever which may be incurred Blue Sky Telecom in enforcing its rights in terms of these Conditions, including without limiting the generality of the afore going, legal costs on the scale of attorney and own Customer and collection commission, irrespective of whether any action has been instituted, will be recoverable on demand from the Customer against which such rights are successfully enforced and will be payable on demand.
- The validity of these Conditions, their interpretation, the respective rights and obligations of the parties and all other matters arising in any way out of these Conditions or their performance will be determined in accordance with the laws of South Africa.
- This Agreement supersedes and cancels any and all previous agreements between Blue Sky Telecom and the Customer relating to the subject matter hereof.

19. ACCEPTABLE USE POLICY

- General and Acceptable Use
 - The provisions of the Acceptable Use Policy:
 - form part of the Conditions;
 - are binding on the Customer; and
 - are intended as guidelines and are not meant to be exhaustive.
 - Generally, conduct that violates any law, regulation, or the accepted norms of the Internet community, whether or not expressly mentioned in the Acceptable Use Policy, is prohibited. Blue Sky Telecom prohibits activities that may damage its commercial reputation and goodwill and reserves the right to take such steps as it may deem required in order to protect itself from such damage being caused by the Customer.
 - The Customer must:

- use the Internet and Blue Sky Telecom Infrastructure for his/her own personal use only and must do so with respect, courtesy, and responsibility, giving due regard to the rights of other Internet and/or Blue Sky Telecom Infrastructure users;
 - have a basic knowledge of how the Internet functions, the types of uses which are generally acceptable, and the types of uses which are to be avoided.
- The Customer acknowledges and agrees that Blue Sky Telecom is unable to exercise control over the content of the information passing over the Blue Sky Telecom Infrastructure and the Internet, including any websites, electronic mail transmissions, news groups or other material created or accessible over the Blue Sky Telecom Infrastructure. Accordingly, Blue Sky Telecom is not responsible for the content of any messages or other information transmitted over the Cool Infrastructure and/or Internet.
- The Customer agrees to indemnify Blue Sky Telecom and its Affiliates in full and on demand from and against any loss, damage, costs or expenses which they may suffer or incur directly or indirectly as a result of the Customer's use of the Blue Sky Telecom Infrastructure and/or Internet otherwise than in accordance with the Acceptable Use Policy, the Conditions and the Applicable Laws.
- Prohibited, Unacceptable and Unlawful Use
 - The Blue Sky Telecom Infrastructure may be used only for lawful purposes and Customers may not violate any Applicable Laws when using the Blue Sky Telecom Infrastructure and/or the Internet.
 - Transmission, downloading, distribution or storage of any material on or through the Blue Sky Telecom Infrastructure in violation of Applicable Laws by the Customer is prohibited. This includes, without limitation, material protected by copyright, trademark, trade secrets or other intellectual property right used without proper authorisation, and material that is obscene, defamatory, constitutes an illegal threat, violates export control laws, constitutes child sexual abuse imagery, pirated software, illegal downloads, "*Hackers programs or archives*", "*Warez Sites*", "*Irc Bots*", "*Illegal Mp3's*", drug dealing or other illegal activities.
 - The Customer is prohibited from posting of defamatory, scandalous, violent or private information about a person without their consent, intentionally inflicting emotional distress, or violating trademarks, copyrights, or other intellectual property rights.
- Web Hosting
 - Due to the nature of a shared web hosting environment, Blue Sky Telecom reserves the right to ask Customers to upgrade or correct issues pertaining to upgrade their shared web hosting package, or to correct issues on their shared web hosting package, should it adversely affect the Blue Sky Telecom Infrastructure, network or server performance for the majority of the Blue Sky Telecom web hosting customers.
 - The Blue Sky Telecom shared web hosting platform is intended for hosting a website with relevant content and function for a personal or small home business without the concern of traffic overages. The use of the service should not be indicative for large scale enterprises or applications where a dedicated server would be more suited.
 - Blue Sky Telecom prohibits the use of the shared web hosting service disk space to be utilised for purposes other than its intended function, which intended function is: content hosting, personal and small enterprise email and relevant web files.
 - The use by the Customer of shared or dedicated hosting services for hosting torrent boxes and/or running proxies is strictly prohibited. Servers continuously running a risk

of supporting these types of services will be disabled and cancelled from the Blue Sky Telecom Infrastructure.

- Blue Sky Telecom may at any time with reasonable notice to the Customer (if such Customer makes use of the web hosting services), revise or amend its current shared and dedicated web hosting offerings relating to price, features, traffic, allocations and disk sizes.
- Business Use
 - The Customer acknowledges that:
 - there is a distinction between residential/home internet services (fibre-to-the-home) and business services (fibre-to-the-business);
 - a high number of users (on average, more than 5 users) accessing the Blue Sky Telecom Infrastructure and/or Internet through a single account, it would result in a higher cost incurred by Blue Sky Telecom to service such an account based on the Blue Sky Telecom uncapped, unlimited and unshaped model;
 - Accordingly, the Customer acknowledges and agrees that, unless it is a Business Customer, it may not allow more than 5 users to access the Blue Sky Telecom Infrastructure through its account at any given time. Failure to adhere to this requirement may result in the Customer incurring additional charges and Blue Sky Telecom may immediately suspend or terminate the Services of such a Customer without notice.
- System and Network Security
 - All references to systems and networks under this section includes the Internet (and all those systems and/or networks to which the Customer is granted access through Blue Sky Telecom) and includes but is not limited to the Blue Sky Telecom Infrastructure itself.
 - The Customer may not circumvent user authentication or security of any host, network, or account (referred to as “*cracking*” or “*hacking*”), nor interfere with service to any user, customer, host, or network (referred to as “*denial of service attacks*”).
 - Violations of system or network security by the Customer are prohibited, and may result in civil or criminal liability. Blue Sky Telecom will investigate incidents involving such violations and will involve and will co-operate with law enforcement officials if a criminal violation is suspected.
 - Examples of system or network security violations include, without limitation, the following:
 - unauthorised access to or use of data, systems or networks, including any attempt to probe, scan or test the vulnerability of any system or network or to breach security or authentication measures without the express authorisation of Blue Sky Telecom;
 - unauthorised monitoring of data or traffic on the network or systems without express authorisation of Blue Sky Telecom;
 - interference with service to any user, customer, host or network including, without limitation, mail bombing, flooding, deliberate attempts to overload a system and broadcast attacks;
 - forging of any TCP-IP packet header (spoofing) or any part of the header information in an email or a newsgroup posting; and
 - employing posts or programs which consume excessive CPU time or storage space, permits the use of mail services, mail forwarding capabilities, POP

accounts, or auto responders other than for their own account; or resale of access to CGI scripts installed on the Blue Sky Telecom servers.

- Email Use and Spamming

- It is expressly prohibited to send unsolicited mail messages ("*junk mail*" or "*spam*"), including, without limitation, commercial advertising and informational announcements, and the Customer will refrain from doing so.
- The Customer will not use another site's mail server to relay mail without the express permission of the site (known as public relay) or distributing, advertising or promoting products or software or services that have the primary purpose of encouraging or facilitating unsolicited commercial e-mail or spam.
- Blue Sky Telecom may examine the Customer's mail servers to confirm that no mails are being sent from the mail server through public relay and the results of such checks can be made available to the Customer. All relay checks will be done in strict accordance with Blue Sky Telecom' policy of preserving customer privacy.
- The Customer may not use the Blue Sky Telecom Infrastructure and/or servers to effect or participate in any of the following activities:
 - posting to any Usenet or other newsgroup, forum, e-mail mailing list or other similar group or list articles which are off-topic according to the charter or other owner- published FAQ or description of the group or list;
 - sending unsolicited mass e-mailings, if such unsolicited e-mailings provoke complaints from the recipients;
 - engaging in any of the foregoing activities using the service of another provider, but channelling such activities through the Blue Sky Telecom Infrastructure (or a Blue Sky Telecom provided server, or using a Blue Sky Telecom provided server as a maildrop for responses);
 - falsifying user information provided to Blue Sky Telecom or to other users of the service in connection with use of a Blue Sky Telecom service.

- Fair Access

- To help ensure that all Customers have fair and equal use of the Services and to protect the integrity of the Blue Sky Telecom Infrastructure, Blue Sky Telecom reserves the right, and will take necessary steps, to prevent improper or excessive usage of the Blue Sky Telecom Infrastructure. These steps include, but are not limited to:
 - limiting throughput;
 - preventing or limiting Service through specific ports or communication protocols; and/or
 - complete termination of Services to users who grossly abuse the Blue Sky Telecom Infrastructure through improper or excessive usage.
- This applies to and will be enforced for intended and unintended (e.g., viruses, worms, malicious code, or otherwise unknown causes) prohibited usage.
- Online activity will be subject to the available bandwidth, data storage and other limitations of the Service provided, which Blue Sky Telecom may, from time to time, revise at its own discretion and without prior notice to the Customer.

- All services are broadband best effort. Contention ratios are managed dynamically.
- All services are offered as an “Up to” a maximum. Maximum speeds are an indication and are not a guarantee speed.

- Reporting Network Abuse and Complaints

Anyone may report a complaint, a violation or suspected violation of the Acceptable Use Policy to Blue Sky Telecom by contacting Blue Sky Telecom via email: support@blueskysat.com.

- Breach of the Acceptable Use Policy

- Blue Sky Telecom may, in its sole discretion, determine what constitutes a breach of the Acceptable Use Policy.
- Upon Blue Sky Telecom becoming aware of an alleged violation of the Acceptable Use Policy, it may:
 - initiate an investigation into this alleged violation within a reasonable time after becoming aware thereof;
 - restrict or completely withdraw the Customer’s access to the Blue Sky Telecom Infrastructure and Internet during the investigation in order to prevent further possible unauthorized activity – in these circumstances the Customer is not entitled to service credits for these outages.
- If the Customer is found in violation of the Acceptable Use Policy, Blue Sky Telecom may, in its sole discretion, restrict, suspend, or terminate the Customer’s account and/or pursue other civil remedies (including but not limited to any costs associated with the investigation of a substantiated policy violation). Generally, violations will be dealt with as follows, however, Blue Sky Telecom may deviate from this if it determines it necessary:
 - first violations by the Customer of the Acceptable Use Policy will result in the Customer being liable for a Cleanup Fee of R1,500 and the Customer’s account will be reviewed for possible termination;
 - second violations by the Customer of the Acceptable Use Policy will result in the Customer being liable for a Cleanup Fee of R3,500 and immediate termination of the Customer’s account.
- If a violation is a criminal offence, Blue Sky Telecom will notify the appropriate law enforcement department of such violation.
- The Customer will be liable for any and all costs incurred by Blue Sky Telecom as a result of the Customer’s violation of the Acceptable Use Policy. This includes, but is not limited to, legal fees on an attorney-client basis and costs resulting from Postmaster responses to complaints from and the clean-up of unsolicited commercial mailings and/or unauthorized bulk mailings and/or news server violations, and an investigation fee of no more that R1,500 per hour that Blue Sky Telecom personnel must spend to investigate any violations.

20. Referral of Complaints to ICASA

- If you are not happy about the outcome of the Complaint you have the right to escalate it to ICASA. If ICASA are not able to resolve the matter it may be referred to the ICASA Complaints and Compliance Committee for adjudication.
- Please note that under the ICASA Code of Conduct Regulations 2008 you must give us an opportunity to resolve the matter within the 14 day period before you have the right to escalate your complaint to ICASA.
- ICASA can be contacted in the following ways:
 - 1 telephone (011) 566 3000,

- 2 fax (011) 444 1919 or
- 3 email: consumer@icasa.org.za
- Any dispute, which cannot be so resolved, shall be subject to binding arbitration upon the written demand of either party. Arbitration shall take place in South Africa. Should any legal action permissible under this Agreement be instituted to enforce the terms and conditions of this Agreement, in particular the right to collect money due on unpaid invoices, the prevailing party shall be entitled to recover reasonable attorney's fees and expenses incurred at both the trial and appellate levels. The terms of this Section will survive any termination of this Agreement.