

# TELFREE

## Standard Terms & Conditions

### (Version 1.9)

(updated 2009/02/24)

#### 1. General

This Agreement covers the terms and conditions that apply to the TelFree Service offering and to you the customer. If you purchase our TelFree Service (i.e. voice, instant messaging, short message service), equipment or use any of our software phones, you are the customer, along with anyone using the Service, with or without your consent. By enrolling, activating, signing up, paying for, or use of the TelFree Service, you agree to these terms and conditions.

We may modify or cancel the Service or take corrective action at anytime without prior notice of violation of any of these terms and conditions. Terms and conditions may change from time to time, so please check the TelFree website ([www.TelFree.co.za](http://www.TelFree.co.za)) to view, such changes.

You agree not to use the TelFree Service in any way that is illegal, or fraudulent, as determined by TelFree. You may not alter any of the hardware or software on any TelFree products.

You agree not to use or allow the use of the TelFree Service in any way that is illegal, fraudulent, abusive, a nuisance, indecent, racist, obscene, defamatory, objectionable, inconsiderate, inconvenient, or annoying as determined by TelFree. You may not alter or do anything or allow anything to be done which may damage or affect the operation of any of the hardware or software of any TelFree Service or products.

All hardware and software that is used in conjunction with the TelFree Service must be used in accordance with all applicable instructions, such as safety and security procedures, user manual and minimum system requirements.

#### 2. Service

You may use TelFree's Service with other suitable equipment. Talk Time is intended for domestic and international calling from any broadband internet connection. Local phone numbers and area codes may not be available in certain affiliate markets.

Quality of service may be affected by conditions beyond our control, including atmospheric, geographic, or topographic conditions. We do not warrant or guarantee that the TelFree Service will be available at any specific time or geographic location, or that Service can be provided without interruption. We may give credit for continuous TelFree Service interruption of more than 24 hours on a case-by-case basis, if such interruption

was reasonably within our control, and if you notify TelFree at (0)87 750 0000 or fax 012 460 1538, or send an e-mail to [customerservice@TelFree.co.za](mailto:customerservice@TelFree.co.za) within seven (7) days of the interruption.

For the TelFree Service to work properly, you must use TelFree terminal equipment or other compatible equipment to access the Internet. Connectivity and access to the Internet can be achieved in several ways, including ADSL, 3G, iBurst etc. However, it is important to note that you are responsible for ensuring that you have adequate bandwidth quality for the TelFree Service to work properly.

### **3. Service Distinctions**

You acknowledge and understand that the TelFree voice service is not a legacy telephone service. Important distinctions (not necessarily all of which are described in this Agreement) exist between traditional telephone services and the enhanced voice service offering provided by TelFree. This TelFree voice service is subject to different regulatory treatment than traditional telephony services by ICASA. This treatment may limit or otherwise affect your rights of redress before Government regulatory agencies.

### **4. Non-Availability of traditional emergency 112 Dialing Services**

You acknowledge and understand that the TelFree Service does NOT support traditional access to emergency services and should not be relied upon to call emergency services or call centres. We advise you to use a regular telephone service to make 112 emergency calls.

If you use TelFree to attempt an emergency call, you may be significantly delayed or routed to a call center far from your actual location. If you use TelFree (even though we advise you to use a regular telephone service) to make an emergency call, you must immediately tell the dispatcher your actual physical/geographical location and follow their instructions carefully.

#### **Automated Number Identification**

During the current stage of the technical development of the TelFree Service it may or may not be possible for the Public Safety Answering Point (PSAP) and local emergency personnel to identify your TelFree phone number if you dial 112. Our system is configured to send automated number identification information. However, some telephone companies route the traffic to a PSAP and the PSAP itself must be able to receive the information and pass it on to emergency personnel in your area. PSAP's are not always technically capable of doing so. You acknowledge and understand that PSAP and emergency personnel may not be able to identify your phone number in order to call you back if the call is not completed, dropped or disconnected before you are able to tell them your phone number and/or if the service is not operational, including without limitation those listed elsewhere in this Agreement.

## Automated Location Identification

During the current stage of the technical development of the TelFree Service it is not possible to transmit identification of the physical address you have listed with a Public Safety Answering Point (PSAP) and local emergency personnel in your area when you dial 112. You acknowledge and understand that you will need to state the nature of your emergency promptly and clearly, including your location, as PSAP and emergency personnel will NOT have this information. You acknowledge and understand that PSAP and emergency personnel will not be able to find your location if the call is not completed, dropped, disconnected or if you are unable to tell them your location and/or if the service is not operational, including without limitation those listed elsewhere in this Agreement.

## Alternative 112 Arrangements

You acknowledge that TelFree does not offer primary line or lifeline services and that you should always have an alternative means of accessing traditional emergency services.

## **5. Service Outage**

### Power Failure or Disruption

You acknowledge and understand that the TelFree Service will not function in the event of a power failure or disruption. Should there be a power interruption the TelFree Service will only function when such service is restored. A power failure or disruption may require the Customer to reset or reconfigure equipment prior to utilizing the Service again.

Broadband Service / ISP Outage or Termination / Suspension or Termination by our international suppliers.

You acknowledge and understand that service outages, suspension or termination of service by your broadband provider and/or ISP will prevent ALL service, but you will continue to be billed for the TelFree Service unless and until you terminate Service in accordance with this Agreement. You acknowledge that TelFree out-sources Internet telecommunications through suppliers, who maintain the Internet switching infrastructure, and you acknowledge that TelFree will not be liable for any interruptions of service, failure of service or termination of service by such suppliers.

### Service Outage Due to TelFree Suspension of Your Account

You acknowledge and understand that Service outages due to suspension of your account by TelFree will prevent the use of ALL TelFree Services.

## Pay-Per-Call Services and Freephone Numbers

TelFree will not directly complete any calls to a pay-per-call service. Any 08 freephone number service will be charged the standard South Africa tariff per minute.

### **6. Phone number.**

The phone number we assign to you is not your property. We may assign the phone number to another customer if you cancel your TelFree Service, or if your account becomes de-activated, or if the Service is terminated under this Agreement, or for technical reasons. We reserve the right to reassign the number any time after the number becomes available for use by another customer. We may have to assign you a different number during the term of this Agreement, but we will notify you in such an instance.

### **7. Your Existing Phone Number**

You cannot switch an existing wire-line or wireless phone number to become your TelFree number. Such an arrangement may only become possible in future with the introduction of carrier pre-select (CPS), where you, the customer, will be given the right to choose who you wish to use to carry you national or international calls.

You may subscribe to a separate non-geographic TelFree number for your TelFree Service. Since this is an Internet based service, as calling patterns are not driven by traditional Area Code formats. This is similar to your mobile phone that rings wherever you have the mobile phone, regardless of the assigned Area Code. For example, with TelFree, you can take your phone with you while you travel globally and where ever you access the Internet your TelFree number will be able to receive calls and make calls. Please visit [www.TelFree.co.za](http://www.TelFree.co.za) for further information on available Virtual Numbers.

### **8. Charges.**

Any fees paid to TelFree including any pre-payments (recharges) are non-refundable, subject to clause 6 of the TelFree Service Agreement, regardless of who actually uses or possesses your phone after you buy talk time, and regardless of whether the usage of the TelFree Service is made with or without your consent or knowledge.

Calls are billed in units of time (in seconds), subject to the service package which you choose, in either per second, per six seconds, thirty seconds, or per minute increments, with a minimum initial period of time as set by TelFree. Billing starts when the called party answers or if the call is connected to the called party's answering service. All subscription rates are subject to change and Customers will be informed a month in advance of any such change(s). Call charges are dependent on our interconnection partners and TelFree reserves the right to continuously update them to offer you the best rates. These rates are available on our website.

Please contact TelFree on 0877500000 or visit our website [www.TelFree.co.za](http://www.TelFree.co.za) for information about our services and current call rates. Calls to TelFree may be monitored

for quality purposes.

### **9. Disputed Charges**

If you consider there to be an error in a charge posted to your account, please notify us as soon as possible, but within 15 days (after the charge) to request an adjustment to such charge. Call TelFree Customer Service on 0877500000 or 012 460 1538.

### **10. Recharge**

TelFree bills Talk Time and SMS in real time (pre-paid) and is subject to the customer's type of subscription package. You must recharge your account to keep it active for calls to non-TelFree numbers and SMS. Log on to your account at [www.TelFree.co.za](http://www.TelFree.co.za) to recharge your Talk Time...

Recharges will be loaded onto your personal account within 24 hours of your purchase and you need to ensure that you recharge your account well in advance to avoid de-activation. This delay allows our security vetting procedures to be executed and transactions to be approved. If transactions are flagged as potentially fraudulent they will be queried for further information. These procedures are to protect customer interests. Any potentially fraudulent transactions will either be suspended or passed for payment with notification and approval by the TelFree merchant. TelFree reserves the right to pass on any information regarding potentially fraudulent transactions to the SA or international authorities and our credit card merchant including IP numbers both public and private.

### Recharges and Refunds

#### Monthly Service (Subscription) Fees

A Non-refundable Monthly Service Fee will be deducted from the Customer's account on the first day of each month for each assigned voice channel. Monthly Service Fees will be charged on a pro-rata basis to Customers who subscribe to TelFree's Service on any other day of a month. If the Customer's account goes into arrears due to the deduction of the monthly service fee, the account will be suspended. This will result in the Customer not being able to use any TelFree Service until such time as the account has sufficient funds to cover the outstanding monthly service fee. Upon cancellation of the TelFree Service the Customer will forfeit the monthly service fee paid for that notifying month and their TelFree Service will be de-activated.

#### Pre-paid Talk Time

Unused Pre-Paid Talk Time, purchased by the Customer, will be refundable within 30 days of a service cancellation request from the Customer.

## **11. Reactivation and Your Account**

Should this suspension status of the Customer's account, as referred to in clause 10 above, continue for two consecutive months, the account will be de-activated at the beginning of the third month and the Customer will be required to re-subscribe.

## **12. Terminal Equipment Warranty**

TelFree warrants that terminal equipment sold directly by it to its agents or customers is compatible with the TelFree Service and is free from any defect.

Any defective terminal equipment purchased directly from TelFree may be returned to TelFree within 30 days of purchase either for replacement, repairs or a refund, subject to the Terminal Equipment Warranty conditions in the TelFree Subscriber Service Agreement. Please contact TelFree at 0877500000 or fax 0124601538 for further information.

## **13. Lost or Stolen Equipment**

If your phone or terminal equipment is lost or stolen, you are still responsible for TelFree Service charges incurred until you notify us of the loss. Once you notify us, we will suspend your account until you have purchased new terminal equipment and are ready to use the TelFree Service again. Money left in your suspended account will be credited to your new account and re-activated for your use.

## **14. Copyright / Trademark / Unauthorized Usage of Device, Firmware & Software**

The Service and Device and any firmware or software used to provide the Service or provided to you in conjunction with providing the Service, or embedded in the Device, and all Services, information, documents and materials on TelFree's website(s) are protected by trademark, copyright or other intellectual property laws and international treaty provisions. All websites, corporate names, service marks, trademarks, trade names, logos and domain names (collectively "marks") of TelFree are and shall remain the exclusive property of TelFree and nothing in this Agreement shall grant you the right or licence to use any of such marks. You acknowledge that you are not given any licence to use the firmware or software used to provide the Service or provided to you in conjunction with providing the Service, or embedded in the Device, other than a nontransferable, revocable licence to use such firmware or software in object code form (without making any modification thereto) strictly in accordance with the terms and conditions of this Agreement. You expressly agree that the Device is exclusively for use in connection with the Service and that TelFree will not provide any passwords, codes or other information or assistance that would enable you to use the Device for any other purpose. If you decide to use the Service through an interface device not provided by TelFree, which TelFree reserves the right to prohibit in particular cases or generally, you warrant and represent that you possess all required rights, including software and/or firmware licences, to use that interface device with the Service and you will indemnify and hold harmless TelFree against any and all liability arising out of your use of such

interface device with the Service. You shall not reverse compile, disassemble, reverse engineer or otherwise attempt to derive the source code from the binary code of the firmware or software.

#### **15. LIMITATION OF LIABILITY**

OUR SUPPLIERS AND TELFREE SHALL NOT BE LIABLE TO YOU FOR ANY INDIRECT, SPECIAL INCIDENTAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES OF ANY KIND, INCLUDING LOST PROFITS (REGARDLESS OF WHETHER WE HAVE BEEN NOTIFIED THAT SUCH LOSS MAY OCCUR) BY REASON OF ANY ACT OR OMISSION IN OUR PROVISION OF PRODUCTS OR SERVICES. WE SHALL NOT BE LIABLE FOR ANY ACT OR OMISSION OF ANY OTHER COMPANY FURNISHING A PART OF OUR SERVICE OR ANY EQUIPMENT PROVIDED FOR SUCH SERVICE - INCLUDING ERRORS OR OMISSIONS OF ANY VENDORS PARTICIPATING IN OFFERS MADE THROUGH OTHER COUNTRIES - OR FOR ANY DAMAGES THAT RESULT FROM ANY PRODUCT OR SERVICE PROVIDED BY OR MANUFACTURED BY THIRD PARTIES. IN NO EVENT SHALL TELFREE OR OUR SUPPLIERS BE LIABLE FOR AN AMOUNT EXCEEDING THE PURCHASE PRICE OF THE PRODUCTS AND/OR SERVICE. SOME STATES PROHIBIT LIMITATION OF DAMAGES RESULTING FROM PHYSICAL INJURY OR DAMAGE AND YOU MAY HAVE ADDITIONAL RIGHTS THAN THOSE SET FORTH ABOVE.

#### **16. Indemnification**

You agree to indemnify and hold harmless TelFree and our Suppliers from any and all liabilities, penalties, claims, causes of action and demands brought by third parties (including the costs, expenses and attorneys' fees on account thereof resulting from your use of the TelFree and Suppliers products and services) whether based in contract or tort (including strict liability) and regardless of the form of action.

#### **17. LIMITED WARRANTY**

EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, AND EXCEPT FOR THE LIMITED WARRANTY SET FORTH IN THE SUBSCRIBER SERVICE AGREEMENT FOR TERMINAL EQUIPMENT PROVIDED BY TELFREE, OR POSTED ON OUR WEBSITE [www.TelFree.co.za](http://www.TelFree.co.za). WE DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED BY LAW, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. WE MAKE NO WARRANTY THAT THE SERVICE WILL BE UNINTERRUPTED OR ERROR FREE. WE DO NOT AUTHORIZE ANYONE, INCLUDING BUT NOT LIMITED TO EMPLOYEES, REPRESENTATIVES OR AGENTS OF TELFREE, TO MAKE ANY WARRANTY OF ANY KIND ON OUR BEHALF AND YOU SHOULD NOT RELY ON ANY SUCH STATEMENT(S).

#### **18. Notices**

You may notify us by mail: TelFree (P.O. Box 26904, Monument Park, 0105) or Phone 0877500000 or 012 34601538. Fax at 012 460 1538, or email to

customerservice@telfree.co.za, or via our website [www.TelFree.co.za](http://www.TelFree.co.za) . Such notices will only be effective after receipt thereof. Any reply or notice will be sent to your last known residence, TelFree number or electronic address reflected in our records.

#### **19. Use of your subscriber information**

We may, from time to time, use the information you provide us with to market services to you that may be related to our Service offerings. We will always handle your information in a manner consistent with the Republic of South Africa data protection laws and privacy laws and the TelFree privacy policies. You will have the opportunity to choose whether you would like to receive text messages, email, direct mail and other updates from TelFree.

#### **20. Choice of Law; Jurisdiction**

Any complaint, arbitration or dispute arising from the purchase or use of TelFree products and Service or other legal action concerning these terms and conditions shall be interpreted under the laws of the Republic of South Africa and the parties hereby submit to the non-exclusive jurisdiction of the South African courts.

#### **21. Entire Agreement**

These terms and conditions, together with the TelFree Subscriber Service Agreement, constitute the entire agreement between you and TelFree with respect to our products and Service and the terms and conditions under which they are offered and provided to you. These terms and conditions, together with the TelFree Subscriber Service Agreement, supersede all oral or written communications and understandings between you and TelFree with respect to our products and Service to you and the terms and conditions under which they are offered.

#### **22. Severability**

If any part of these terms and conditions is legally declared unenforceable, all other parts of these terms and conditions are still valid and enforceable. Such invalidity or non-enforceability will not invalidate or render unenforceable any other portion of these terms and conditions.

#### **23. No Third Party Beneficiaries**

No provision of these terms and conditions provides any person or entity which is not party to these terms and conditions with any remedy, claim, liability, reimbursement, or cause of action or provide any other third party beneficiary rights.

#### **24. Internet Service Providers Association (ISPA) Code of Conduct**

We are a proud member of ISPA and uphold the ISPA Code of Conduct.

Click on the ISPA logo to read the code of conduct

