

## Terms and conditions

This SUBSCRIBER AGREEMENT details the terms and conditions that govern the relationship between Blue Dot Data (Pty) Limited (hereinafter referred to as BLUEDOT), a Private Incorporated company duly registered and incorporated in accordance with the laws of the South Africa and a Subscriber who has signed and entered into an agreement as a Subscriber as detailed in the quotation document/order form that is issued by BLUEDOT.

In the signed agreement, the subscriber has agreed to be bound by the subscriber terms and conditions as published on the website of BlueDot (namely [www.bluedotdata.co.za](http://www.bluedotdata.co.za)). This documents details the terms and conditions as referred to and are accepted as being the terms and conditions that cover the relationship between BLUEDOT and a Subscriber. The Subscriber acknowledges and agrees to be bound by these terms and conditions from the 3rd day after the date of signature of the issued and signed version of the subscriber quotation/agreement, and as published on this website and as updated by BLUEDOT from time to time. The subscriber undertakes to review this agreement, whenever BLUEDOT send the Subscriber an email detailing the changes hereto and the date from which such changes become applicable and effective. If the subscriber does not accept the revised terms and conditions, the subscriber shall immediately serve notice of cancellation and the agreements shall terminate as detailed in the agreement.

## 2. Commencement and Termination

BLUEDOT provides inter alia ISP, VoIP and other related products and services.

2.2 Subject to the terms and conditions of this agreement, BLUEDOT has agreed to allocate a UIN to the Subscriber and connect the subscriber to the systems and BLUEDOT shall use its reasonable endeavours to make the services available to the subscriber throughout the duration of this agreement, save and accept, for circumstances beyond the control of BLUEDOT.

The subscriber acknowledges that charges and the services are rendered to the subscriber by means of the UIN which is issued to the subscriber personally and which facilitates access to the system and the services.

The services also include direct or outsourced infrastructure, back-office and electronic systems. The methods, technologies, partners and services will continue to grow and be modified by BLUEDOT from time to time in response to changes in economic conditions, legislation and international trends.

The Agreement shall commence on the Effective Date and shall, subject to the provisions of clause 7 and 9 below, continue on a month to month basis until terminated by a party on thirty days written notice:

Termination may occur:

By the Subscriber, by giving to BLUEDOT a written notice of termination not less than thirty calendar days written notice; and/or

By the Subscriber, within a period of 7 (seven) days from the Effective Date, should the Subscriber not find the service fit for use, subject to full restitution by the Subscriber including without limitation, return of the Hardware and full payment in respect of all services used which services will be billed per price applicable to the package subscribed for (incl. VAT); and/or

By BLUEDOT, after 20 business days' notice to Subscriber to notify the Subscriber to rectify a material failure, and after which the Subscriber has failed to comply with.

By BLUEDOT, in the event that the licence to provide the Services has been revoked by the Regulator.

Notwithstanding the use of agents or other intermediaries (Delegated Service Providers) by BLUEDOT, the order by the Subscriber is an offer made by the Subscriber to BLUEDOT and will be considered once received by BLUEDOT. BLUEDOT's acceptance of the offer shall consist of the activation of the Hardware as contemplated herein, and upon which activation the Agreement shall become binding between BlueDot and the Subscriber.

The Subscriber may not cancel or terminate the Agreement and demand reimbursement for payments made in terms of this Agreement, or any damages of whatsoever nature as a result of the Subscriber's relocation to an area outside of BLUEDOT's coverage. It is the responsibility of the Subscriber to ensure that he/she/it is happy with coverage in the area where the Services are provided by BLUEDOT.

Notwithstanding any provision contained in this clause 2 or anywhere in these terms and conditions, BLUEDOT shall be entitled to terminate the Agreement at any time and provide a reason for such termination in compliance with the applicable legislation

The Subscriber acknowledges that, upon termination of the agreement and where there has been unused services, BLUEDOT shall not in any way, convert such unused services into credit on the Subscriber's account and refund same to the Subscriber.

### 3. Supply and installation of Hardware and WISP Services.

3.1 The order placed by the Subscriber to BLUEDOT is subject to BLUEDOT's approval.

3.2 BLUEDOT may in its discretion refer the Subscriber to a third party who may undertake the installation of the Hardware in its own name and behalf and not as an agent of BLUEDOT.

3.3. The Subscriber shall be responsible for obtaining all necessary approvals and authorities imposed by any competent authority or body (this includes but is not limited to body corporates, provincial and local municipalities) and required for the purpose of any such supply and/delivery and/installation, and the Subscriber hereby indemnifies BLUEDOT against any claim or liability suffered by BLUEDOT by reason of such approval and authorities not having been obtained.

3.4 Ownership in the Hardware will remain vested in BLUEDOT. However, all risk in and to the Hardware supplied and delivered by BLUEDOT to the Subscriber shall pass to the Subscriber on delivery.

3.5 If any Hardware is lost, stolen or damaged, the Subscriber shall immediately notify BLUEDOT in writing and until such notification, the Subscriber shall remain liable for all costs and charges pertaining to such Hardware. BLUEDOT shall as soon as reasonably possible replace the Hardware. The cost of this replacement equipment shall be for the Subscriber's account. Such loss, theft or damage and/or the replacement of the Hardware shall in no way be deemed to constitute a termination of the Agreement which shall continue to be of full force and effect.

3.6 The Subscriber hereby warrants and undertakes in favour of BLUEDOT that the Subscriber:

3.6.1 Shall not use nor allow the WISP Services to be used for any improper, immoral or unlawful purpose, nor in any way which may cause injury or damage to persons or property or an impairment or interruption to the WISP Services.

3.6.2 Shall only use the Hardware provided by BLUEDOT, and comply with relevant legislation and regulations imposed by any competent authority and all directives issued by BLUEDOT relating to the use of Hardware and the provision of WISP services.

3.6.3 Recognises that no right, title or interest in the software contained in the Hardware issued to the Subscriber vests in the Subscriber.

3.6.4 Shall not, nor permit any third party to reverse engineer, decompile, modify or tamper with the software contained in or pertaining to any Hardware.

#### 4. Charges

4.1 In consideration for the provision of the WISP Services, Hardware and any other services supplied by BLUEDOT to the Subscriber, the Subscriber shall effect payment to BLUEDOT of the applicable charges, as detailed in the application form and whether or not the WISP Services have been, or are being utilised by the Subscriber.

4.2 BLUEDOT may, by written notice to the Subscriber, vary future charges, either in whole or in part, with effect from the date specified in such notice. Alternatively, once the charges have been updated on this website, they shall apply from the day following such publication on the website. The subscriber undertakes to review the terms and conditions on an on-going basis to ensure that the Subscriber is aware of the terms and conditions that apply. The Subscriber agrees to be bound by the terms and conditions once published on the website.

4.3 Unless otherwise agreed to by BLUEDOT in writing, the Subscriber shall effect payment to BLUEDOT:

4.3.1 for the supply and delivery and maintenance of Hardware and installation on presentation of invoice and against such delivery.

4.3.2 of monthly service charges monthly in advance and of all other charges, monthly in arrears, in either event in full, within 21 days from date of the relevant invoice. In any event payment is levied in advance, and services will not be provided unless paid for in advance in full.

4.3.3 at BLUEDOT's premises or at the bankers of BLUEDOT in Johannesburg. Where payment is made by the Subscriber through a debit order, other electronic means or any other intermediary, the Subscriber's bankers or other intermediaries shall act as the Subscriber's agent and the Subscriber shall have discharged its obligations only upon payment being received by BLUEDOT.

4.4 Notwithstanding the provisions of clause 4.3, BLUEDOT may at any time on reasonable written notice to the Subscriber vary its invoicing and payment procedures and requirements.

4.5 In the event that BLUEDOT requires payment for the services provided to the Subscriber to be made by debit order, the Subscriber will commit a breach of the Agreement if the Subscriber:

4.5.1 Cancels such debit order without the written consent of BLUEDOT.

4.5.2 Changes his banking details upon which the debit order relies, without giving BLUEDOT prior notification of such change and providing BLUEDOT with the Subscriber's new banking details.

4.5.3 Provides the Service provider with incorrect banking details.

4.6 The Subscriber authorises BLUEDOT to debit any bank account held by the Subscriber for the costs owed by the Subscriber to BLUEDOT in terms of this agreement.

4.7. The Subscriber acknowledges that payments will be debited from the account or credit card in the name of the Subscriber (or in the name of any third party who has consented thereto by signature next to the account details) as described in the Subscriber Application form.

4.8. The Subscriber acknowledges that when there are insufficient funds in the account or credit card of a third party to cover the debit, BLUEDOT reserves its right to debit the Subscriber's banking account or credit card in respect of any Charges owed by the Subscriber to BLUEDOT.

4.9. BLUEDOT shall be entitled to levy an administration Charge and the Subscriber agrees to pay such a Charge in the event that any debit order or other form of payment is returned unpaid from the account or credit card described in the Subscriber application form.

4.10. The monthly statement shall be sent by BLUEDOT to the Subscriber to the address supplied by the Subscriber to BLUEDOT. It shall be the duty of the Subscriber to check the statement in order to ensure that the contents thereof are correct. Unless a query is raised in respect of the contents of the statement within 30 days from the date thereof, the contents of the statement shall be deemed to be correct.

4.11 The Subscriber shall not be absolved from paying the full remaining amount of the Subscriber's agreement as a result of incorrect invoices being sent and/or failure of BLUEDOT to send statements or invoices to the Subscriber.

#### 4.12 Package Migrations

4.12.1 The Subscriber shall be entitled to Downward Package Migration subject to (1) one calendar month notice. A migration fee may be charged by BLUEDOT in respect of downward migration.

4.12.2 In the event of an Upward Package Migration there will be no fees charged.

4.12.3 Any migration from one package option to another shall for the duration of this agreement and be subject to BLUEDOT's approval in its discretion and BLUEDOT shall be entitled to levy fees for migrations, but which fees may not exceed the amounts approved or fixed by the responsible regulatory authority from time to time.

4.13 The Subscriber indemnifies and holds BLUEDOT harmless for any loss suffered as a result of incorrect amounts being debited in respect of applicable charges.

4.14 An installation fee of, but not limited to R600.00 will be applicable to all installations

#### 5. Suspension

5.1 BLUEDOT may at any time, with the necessary notice to the Subscriber and in any manner whatsoever, suspend the Subscriber's access to the WISP Services in the event that:

5.1.1 Any modification, maintenance or remedial work is required to be undertaken pertaining in any manner whatsoever, to the WISP Services or the Network.

5.1.2 The Subscriber fails to perform any of his or her obligations, or breaches any terms of the Agreement (in which event BLUEDOT may also suspend the Subscriber's use of the Hardware).

5.1.3 BLUEDOT is unable to provide the WISP Services to the Subscriber at BLUEDOT's discretion for any reason whatsoever.

5.1.4 The Subscriber allows unmonitored access to the Services to children under the age of 16 years.

5.2 BLUEDOT reserves the right to require the Subscriber to effect payment of any applicable reconnection charges pursuant to the restoration of the WISP Services suspended in the circumstances contemplated in clause 5.1.2. In the event that the Subscriber's access to the Network is suspended, the Subscriber shall still be liable for the monthly service charges during any such period of suspension.

## 6. Limitation of liability

6.1 Without detracting from any of the other provisions of the Agreement, BLUEDOT shall not be liable to the Subscriber for any loss or damage suffered by the Subscriber and whether the same is indirect, direct or consequential, including loss of profits, in the event that:

6.1.1 BLUEDOT fails for any reason whatsoever to supply and/or deliver and/or provide installation of any Hardware either on the required date or at all; and/or

6.1.2 The WISP Services are interrupted, unavailable, suspended or terminated for whatsoever reason; and/or

6.1.3 BLUEDOT fails to suspend the provision of the WISP Services to the Subscriber in terms of an arrangement between BLUEDOT and the Subscriber or after the Subscriber has specifically requested BLUEDOT to do so in order to limit the charges; and/or

6.1.4 Such loss or damage was caused by any negligent act or omission on the part of BLUEDOT, its employees or its agents.

6.1.5 Such loss was caused by the Subscriber's actions, including but not limited to: allowing the WISP Services to be accessed by someone else other than the Subscriber, whether such actions are through the Subscriber's negligence, omission or consent.

6.2 BLUEDOT shall not be liable to the Subscriber in any circumstances whatsoever for any loss, injury or damage of any nature whatsoever or howsoever arising and whether in agreement or in delict, including loss of profit or any other special damages, indirect or

consequential loss or damages which the Subscriber or any other person may sustain, whether as a result of any breach of this agreement by BLUEDOT or whether caused directly or indirectly by the Hardware or the use thereof, and the Subscriber hereby indemnifies BLUEDOT and holds it harmless against any claim by the Subscriber or any other person.

6.3 The Subscriber hereby indemnifies BLUEDOT against any claims arising out of: force majeure or Acts of God (e.g., fire, flood, inclement weather, epidemic, or earthquake); war or act of terrorism, including chemical or biological warfare; labour disputes, lockout, strike, embargo; governmental acts, orders, or restrictions; failure of suppliers or third persons; or where the claim is a result of an action that is beyond BLUEDOT's reasonable control.

6.4 BLUEDOT shall not be liable for any fraudulent activities that may occur due to access by third parties into the Subscriber's account/connection/premises/voice platform. The Customer shall remain liable for the voice account in the event of such fraudulent activity taking place in the Subscriber's account. BLUEDOT reserves its right to scan the Subscriber's voice platform/hardware for any external vulnerabilities/risks. Should BLUEDOT detect a vulnerability/risk, BLUEDOT will advise the Subscriber accordingly and require the Subscriber to eliminate or mitigate the vulnerability/risk at the Subscriber's expense before providing the Service/s.

## 7. Breach

7.1 If the Subscriber commits a breach of any of the terms and conditions hereof and remains in default for a period of 7 (seven) days after delivery to the Subscriber of a written notice ("notice of breach") from BLUEDOT calling for such breach to be remedied, BLUEDOT shall be entitled forthwith and without further notice to the Subscriber to either terminate the Agreement or claim specific performance of all of the Subscriber's obligations, including the immediate payment of all sums of money payable by the Subscriber, whether or not then due, in either event without prejudice to BLUEDOT's right to claim such damages as it may have suffered by reason of such breach or failure.

7.2 Without prejudice to the provisions of clause 7.1 above, BLUEDOT may forthwith terminate the Agreement at any time by giving Subscriber written notice of such termination if (i) the Subscriber fails to make payment of any charges on or before the due date for payment thereof; and/or (ii) the Subscriber within a 12-month period calculated from a notice of breach, receives a further two notices of breach; or (iii) in the event that the Subscriber is sequestered, liquidated or placed under judicial management, irrespective of whether any of the aforesaid are provisional or final; or voluntary or compulsory.

7.3 Any termination pursuant to the preceding provisions of this clause shall be without prejudice to any claim BLUEDOT may have against the Subscriber in respect of any prior breach of the terms and conditions of the Agreement by the Subscriber.

7.4 Without derogating from any other rights or remedies available to BLUEDOT in terms of the Agreement or at law, in the event of the Agreement being cancelled by the Subscriber (for whatsoever reason) prior to the expiry of the Contract Term or any

Renewal Period, or in the event of BLUEDOT electing to terminate the Agreement pursuant to any breach by the Subscriber which entitles BLUEDOT to cancel:

7.4.1 The Subscriber shall be liable to BLUEDOT and hereby agrees to pay on demand, the full charges payable to BLUEDOT for the remainder of the Contract Term or Renewal Period, as the case may be. The charges shall include but not limited to: the subsidized hardware, the balance of the subscription, service usage charges, legal costs, admin fees, any and all other charges stipulated in clause 4 hereof.

## 8. Insurance

8.1 BLUEDOT shall not be liable to the Subscriber under any policy issued or claim declined pursuant to the Subscriber's election to take insurance as provided in the schedule.

8.2 Unless the Subscriber specifically elects to take insurance for the Hardware and related risks or in accordance with the procedures introduced by BLUEDOT from time to time, the Subscriber shall not be covered in respect of the Hardware and related risks.

8.3 If at any stage before or after the Subscriber elects to take insurance, the Subscriber requests from BLUEDOT a summary of the terms and conditions of the applicable insurance policy, BLUEDOT shall use its best endeavours to furnish same to the Subscriber as requested. It shall be the responsibility of the Subscriber to obtain and familiarise himself with the terms and conditions of the insurance policy applicable.

8.4 It shall be the responsibility of the Subscriber to insure the Hardware with any other insurance provider and to ensure that the premiums in respect of the insurance policy are paid timeously and in full.

8.5 Save as provided herein, any queries which the Subscriber may have regarding or arising from the insurance of the Hardware and related risks, shall be directed to the insurance administrators or brokers, as the case may be.