



OnAir Fibre Subscriber Agreement

1. Definitions

Capitalised terms not defined herein have the same meaning as defined in the Master Terms and Conditions.

- 1.1. "Contended" means that multiple users are sharing the same network capacity. Contention ratios are based on the individual design of the third-party fibre access network over which the OnAir service is delivered. Access Circuit speeds are symmetrical.
- 1.2. "Fees" means the amounts to be invoiced via WhatsApp to the Customer in respect of the Products delivered under this Subscriber Agreement.
- 1.3. "ISP" means Internet Service Provider
- 1.4. "Unshaped" means that OnAir does not prioritise or differentiate between different classes of traffic.
- 1.5. "Uncapped" has the meaning as set out in the ISPA guideline on broadband terminology published at <http://ispa.org.za/code-of-conduct/terminology-guidelines/>

2. General

- 2.1. These terms are to be read in conjunction with:
 - 2.1.1. The General Terms and Conditions at https://www.onairtv.co.za/onair_fibre_gtc.pdf
 - 2.1.2. Acceptable Usage Policy at https://www.onairtv.co.za/onair_fibre_aup.pdf
 - 2.1.3. OnAir Fibre Order Confirmation

3. Service Description

- 3.1. OnAir will provide the Customer with uncontented, uncapped, unshaped access to the ISP Network via a fibre circuit at the Customer's selected premises (the "Access Circuit") and the Equipment at a ISP Point of Presence ("PoP"), mobile data and voice over IP services.
- 3.2. The Service provides Internet access by transmitting and delivering IP packets between the Customer's computers connected on the ISP Network by means of the Access Circuit and other networks in accordance with its standard

business arrangements with providers of such other networks.

4. Throughput Rates and IP Access

- 4.1. Access to, and across, the ISP IP Network is at the maximum throughput rates set forth in the subscriber agreement. Maximum throughput rates are not guaranteed.
- 4.2. Due to the nature of the Internet, OnAir can only control IP throughput rates from the user network interface of the Equipment to the point of interconnection between the ISP Network and the Internet.

5. Charges, Billing and Payments

- 5.1. In return for the supply of and access to the Services, the Customer agrees and undertakes to pay OnAir the Charges.
- 5.2. Any invoice will, where applicable, detail the following types of Charges:
 - 5.2.1. installation charge: the installation charge and any other charges levied as a once-off initial charge in respect of the connection of the Services;
 - 5.2.2. reconnection charge: levied, where the Customer's right to use the Services is suspended due to non-payment, and which fee is in respect of any restoration of the Service, is payable in advance, together with any outstanding amounts which are due to OnAir;
 - 5.2.3. ad-hoc / time and material charges: levied on each occasion for the provision of miscellaneous services requested by the Customer;
 - 5.2.4. recurring/rental charges: levied periodically, usually monthly – but in any event, as indicated in the Subscriber agreement – in respect of the use and availability of the Services. Recurring charges are payable in advance for the first and any subsequent rental period on the first day of the month, with effect from the Activation Date;



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- 5.2.5. cancellation fee: a fee raised by OnAir to place it in the position it would have been had the Customer fulfilled the Contract;
 - 5.2.6. call/usage charges: levied on the use of the Service where such use is metered. Call charges and usage charges are billed to the Customer at the end of each billing period.
 - 5.2.7. anticipatory costs: levied to recover the charges that OnAir would have billed for the duration of the Fixed Term Agreement if the Contract had run its full term.
- 5.3. Billing
- 5.3.1. Invoices and statements will be available from OnAir Fibre customer care department on request.
 - 5.3.2. Where there is an event which prevents an accurate determination of the number of units on which the call or usage charges are determined for a billing period, the call charge or usage charges for the period in question shall be set as the average call or usage charges for the preceding 6 (six) billing periods (or lesser billing periods if the Service has been provided for a shorter time).
 - 5.3.3. The invoice sent by OnAir to the Customer is on the face of it, and until the contrary is proved, proof of the amount due by the Customer to On Air. The Customer is, however, entitled to query or dispute any part of the invoice per the provisions set out under clause 10. All undisputed portions of the invoice must, however, be paid by the Due date.
 - 5.3.4. If OnAir determines that the disputed amount is in error, OnAir shall credit the amount incorrectly debited. Should OnAir determine and inform the Customer that the disputed amount was billed correctly such payment shall be paid by no later than the Due date of the next invoice.
- 5.4. Payments
- 5.4.1. Unless OnAir expressly agrees to the contrary in writing, invoices are payable on presentation by way of a monthly debit order.
 - 5.4.2. Invoices and statements are available for download on request. Non-receipt of an invoice by the Customer shall therefore not be considered as a valid reason for late or non-payment.
 - 5.4.3. The Customer shall be liable and responsible for payment until payment has been received into OnAir's bank account.
 - 5.4.4. The Customer shall be in breach of the Contract by cancelling any debit order without the prior written consent of OnAir or where any debit order is returned unpaid or stopped or should any charge card account, or credit card account of the Customer be rejected. In such a case, OnAir will have the right to suspend the Customer's account.
 - 5.4.5. until such arrears amounts have been received and paid in full.
- 5.5. Charges
- 5.5.1. You must pay all taxes, including VAT associated with the Services which we provide to you.
 - 5.5.2. The fixed monthly subscription applicable to the Services is charged each month regardless of whether you utilise the Services.
 - 5.5.3. Any additional charges not included in your package for items including, but not limited to reconnection fees, value added services and hardware payments, will be charged for separately and included in that month's payment run.
 - 5.5.4. In your first month of service you will be charged for a prorated portion of the subscription applicable to the Services you have selected, in accordance with the day of the month your service has been activated.



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- 5.5.5. Your first month bill will include your prorate amount with the advance payment of the monthly subscription and will be collected on the nominated debit order date.
- 5.6. Changes to Charges
- 5.6.1. On Air shall be entitled to increase any of the amounts reflected in the Subscriber agreement, which increase will be relative to the Consumer Price Index. Increases linked to the Consumer Price Index usually are done once per year between January and April.
- 5.6.2. If there is a price increase on components of the Services beyond the control of OnAir (for example: foreign exchange fluctuations, increased pricing on third-party products or services like software license fees, surcharges, taxes, import duties, rates or levies, increased charges from other network operators or delay caused by any instruction of Customer), then OnAir shall be entitled to increase the Charges of the affected Service in proportion to the increase in cost.
- 5.6.3. Any increase as per clause 5.6.1 and 5.6.2 will be given to the Customer in writing.
- 5.6.4. A Consumer will have the right to terminate the Contract without penalty or charge where any such increases render the Service unaffordable to the Consumer, on condition that it gives OnAir 20 (twenty) Business days' notice of its election to cancel the Contract. Where a Consumer terminates the Contract as per its rights under this clause
- 5.6.5. such termination will be without penalty, except where the Consumer has been given or has purchased but not yet paid for Subscriber Equipment. In such a case the Consumer will have a legal duty, and OnAir will have a legal right to demand from the Consumer full payment in respect of the Subscriber Equipment less any amounts that have already been paid to OnAir in respect thereof before such termination.
- 5.7. Unpaid accounts – Suspension of Services
- 5.7.1. Where any amounts due to OnAir by the Customer are not paid on the due date, OnAir shall give the Customer 5 (five) days' notice to pay all arrears/outstanding amounts.
- 5.7.2. If the Customer's account remains unpaid or no written agreement is concluded to settle the arrears, OnAir shall suspend the Customer's services, and the suspension will stay in place until the Customer has paid all arrear amounts and any applicable reconnection charges or the Contract is terminated by OnAir.
- 5.7.3. A reconnection charge of R100-00 (Incl VAT) will be debited to the account of a customer who has not met their payment obligations and which led to the temporary suspension of the service.
- 5.7.4. If the Customer's account is in arrears, then OnAir shall be entitled to suspend all Services linked to the Customer's account, regardless of whether the suspended Services are delivered according to multiple Subscriber Agreements or not.
- 5.8. Credit Limit and payment terms
- 5.8.1. OnAir reserves the right to impose a monetary limit on the maximum value of Charges incurred by the Customer during each billing period, and OnAir shall be entitled after the Customer has been given 20 (Twenty) days' notice of such overspend to which the Customer has not responded, to suspend the Services should the Customer exceed the maximum amount.
- 5.8.2. If OnAir and Customer agree on payment terms that are different to those set out in clause 5.4 and OnAir had to provide Customer with a notice in terms of clause 5.7.1 twice in any rolling 12 calendar month period, then OnAir shall be



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entitled to revert to the default payment terms set out in this clause 5.4.

6. Package Migrations

- 6.1. You may at any time, except for the last day of the month; downward migrate from your Package to a less costly Package. The downward migration however will only come into effect in the month following your migration request.
- 6.2. The result of a downward migration is that you will be charged a lower subscription price for your services.
- 6.3. At any stage following the commencement of this Agreement, except for the last day of the month; you may (based on qualifying criteria) upward migrate from your Package to a more costly Package. If you decide to do this, the upward migration will only come in to effect in the month following your migration request and once subscription payment has been successfully processed for that following month's subscription.
- 6.4. The result of an upward migration is that you will be charged a higher subscription price for your services.
- 6.5. OnAir reserves the right to exclude specials run from time to time from the Packages you are able to migrate to.

7. Suspension, Withdrawal or Termination of the OnAir Service

- 7.1. OnAir may from time to time, and on notice where this is possible, suspend the OnAir Service and where applicable the right to use the Managed Service Equipment, or in its discretion disconnect the Managed Service Equipment from the ISP's Network in any of the following circumstances:
 - 7.1.1. for routine maintenance, modifications to, or unplanned maintenance of the OnAir Network and/or any other systems involved in the delivery of the Services;

- 7.1.2. to mitigate against fraudulent or suspected fraudulent use of the Customer's Service;

- 7.1.3. per clause 7.7 or 7.8.1 above;

- 7.1.4. because of problems on third parties' infrastructure which has affected or disrupted the OnAir Service;

- 7.1.5. where certain Services are being abused by the Customer; and/or

- 7.1.6. where the OnAir Service or Managed Service Equipment is found to contain a security risk or shortcoming which enables the Customer to exploit the OnAir Service to the detriment of OnAir;

- 7.1.7. where the Customer uses Subscriber Equipment that is not approved by ICASA for such use;

- 7.1.8. Where the Service is removed because of a take-down notice that OnAir is obliged to act on.

- 7.2. The Customer accepts that the right to suspend the Services is necessary to maintain the quality of Services, the integrity of the OnAir Network, and to protect the interest of both the Customer and OnAir and that it will remain liable for all Charges which may be levied by OnAir during the period of suspension.

- 7.3. OnAir may from time to time, and on notice where this is possible, and without prejudice to any other claims or remedies which OnAir may have in terms hereof or in law, discontinue and/or terminate any part of the Contract, or in its discretion disconnect the Managed Service Equipment from the ISP's Network in any of the following circumstances:

- 7.3.1. where the OnAir Service or Managed Service Equipment has reached the end of its lifespan and is uneconomical to maintain or continue;

- 7.3.2. where there has been an insignificant interest in the use of a Service;

- 7.3.3. in response to an instruction from ICASA or in terms of the ECA or some other law or any authority competent to issue such instruction;



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- 7.3.4. if the Customer has received the Service because of fraud or misrepresentation;
- 7.3.5. if the Customer makes or offers to make any arrangement or composition with its creditors or commits any act of insolvency in terms of the Insolvency Act or any other applicable legislation;
- 7.3.6. if the Customer is using or permitting the use of the Service or any element thereof for any illegal purpose or in contravention of Applicable Law;
- 7.3.7. for any other reason incidental to 8.3.1 – 8.3.6 inclusive.

8. Breach and Termination

- 8.1. Should the Customer breach:
 - 8.1.1. its payment obligations and have been suspended for non-payment for a period longer than 5 (five) days; or
 - 8.1.2. any other term of this Contract and fails to rectify the breach within the notice period provided by OnAir (which shall be a reasonable period given the circumstances of the breach);
 - 8.1.3. then OnAir will have the right to either suspend or to cancel the Contract(s), without diminishing its right to claim any Anticipatory Costs or early termination penalties.
- 8.2. Should OnAir breach any material term of this Contract, then the Customer will have the right to provide OnAir with a letter requiring OnAir to rectify the breach within a period of 20 (twenty) Business Days. Should OnAir neglect or fail to remedy such breach within the 20 (twenty) Business Days' notice period, then the Customer may cancel the Contract without penalty.
- 8.3. The Customer shall be liable for all costs, including legal costs on an attorney and client scale, tracing cost and collection commission incurred by OnAir in respect of the enforcement of any obligations of the Customer in terms of this Contract.

- 8.4. Without diminishing any other claims or remedies which OnAir may have against the Customer in terms of this Contract or law, OnAir may terminate the Contract if the Customer has delayed the installation of the Service for longer than 3 (three) months and hold the Customer liable for Anticipatory Costs incurred by OnAir in this regard.

9. Customer Assistance, Disputes or Complaints

- 9.1. Technical Complaints and Billing Queries
 - 9.1.1. OnAir can be contacted for technical support and account queries at the details provided at <https://www.onair.co.za/fibre>.
 - 9.1.2. If the Customer experiences any trouble with any of the Services or with the Charges, it must bring the problem to OnAir's attention by raising a trouble ticket with OnAir by telephone, WhatsApp or email. The issue will then be logged and detailed, and the Customer will be provided with a reference number.
 - 9.1.3. OnAir will use its best endeavours to attend to the trouble tickets as soon as it is possible, which will depend on the complexity and nature of the problem as well as resource availability.
 - 9.1.4. Where Customer has exhausted all levels of escalation and remains of the view that the matter has not been resolved to the satisfaction of the Customer, the Customer will have the right to refer the matter to ISPA, which can be done via the complaints form at <http://ispa.org.za/code-of-conduct/complaints-form/>.
- 9.2. Complaints: If Customer has a complaint that is not related to the performance of the Service or related to a billing query, the Customer must follow the OnAir complaints process as amended from time to time and made available on the OnAir website.



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9.3. Single Forum Resolution: The above rights are without prejudice to both Parties' respective rights to pursue a complaint or action in any other forum that has jurisdiction over the matter including the rights to submit the complaint to ICASA, provided that the same complaint shall not be lodged at more than one forum.

10. Equipment

- 10.1. The Equipment will be provisioned with a standard configuration in respect of the ordered Service.
- 10.2. You must identify a suitable location for the Equipment. The location must be dry, free from vibration and well ventilated. Installation is only possible if the distance from the termination point of the Access Circuit and a 220V energy supply to the position the Equipment is not greater than 2 metres.
- 10.3. In the event of failure of the Equipment, OnAir will repair or replace (at OnAir's discretion) the Equipment where such failure is covered by the warranty of the original equipment manufacturer. Where the Equipment is replaced, you must return the original Equipment to OnAir.
- 10.4. You accept liability for any costs incurred by OnAir as a result of repair or replacement of Equipment where the Equipment failure was caused by your use, misuse or changes to the Equipment, other than as previously agreed to in writing by OnAir.
- 10.5. OnAir will retain the password for the Equipment. Responsibility for the IP configuration of the Service Configuration lies with OnAir.
- 10.6. Ownership of the Wifi Equipment vests with OnAir for the period equal to the first 12 monthly payments received by OnAir. Equipment is not subject to a rent- to-own contract.
- 10.7. Ownership of any other hardware included in the sale is subject to the period as defined in

the relevant Terms and Conditions for the sale of that product. Equipment is not subject to a rent- to-own contract.

11. Accuracy of Your Information

You will provide OnAir with accurate and up to date information: (i) when completing the OnAir documentation; and (ii) when you contact OnAir to report a suspected fault and is asked a standard set of structured questions. OnAir shall not be liable for any loss suffered as a result of your failure to provide accurate information or any relevant facilities, which may lead to a delay in installation or service repair.

12. Set Up and Configuration/ Installation Fees

- 12.1. Services offered by OnAir are all subject to a once-off set up and configuration or Installation fee.
- 12.2. Should OnAir offer to conditionally waive or subsidise this fee and you terminate your subscription within twelve (12) months of activating the Access Circuit, the full installation or setup and configuration fee is payable as part of the termination fee. Termination fees will not be pro-rated.
- 12.3. Network operators may charge a separate installation fee, billed directly to the customer, for the installation of the Access Circuit from the property boundary to within the home - even if and notwithstanding that the service is ordered directly with OnAir.

13. Relocation

- 13.1. The element of the Service that is comprised of the provision of the Access Circuit is provided to the specific address set out in Order Form with an Access Circuit leased via the ISP from a network operator. Accordingly, the provision of the



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Access Circuit is not transferable to another premises.

- 13.2. Although unused data will be rolled over to a new fibre service in accordance with the provisions of clause 5 above, your relocation nonetheless necessitates a cancellation of the Service.
- 13.3. Notwithstanding that the cancellation is necessitated by relocation, OnAir will recover such costs associated with such cancellation as set out herein from you.
- 13.4. All requests for the Service at new premises shall be subject to a feasibility study to determine whether a network operator has adequate fibre infrastructure in order to provide the Service at the new location.

14. Cancellation Terms

- 14.1. Customer must give one clear calendar month notice of his/her intention to cancel the service. Cancellations must be sent to OnAir in writing to fibre@onairtv.co.za.
- 14.2. If a cancellation in terms of clause 9 above results in the termination of service prior to the expiration date of a fixed term agreement, then OnAir shall be entitled to levy a termination fee equal to the fees that would have become due and payable in respect of the balance of the contract term.
- 14.3. If Customer terminates an Access Circuit prior to it being activated by OnAir or prevents OnAir from activating the Access Circuit after it has been ordered, then the Customer shall be liable to OnAir for R2750-00 (VAT Incl) installation and other charges that it is liable to pay the network operator.