

SERVICE TERMS AND CONDITIONS

1. Interpretation

"Account" means our record of your credit and charges and, where applicable, personal details. **"Agreement"** means as defined. **"Bar"** means a block placed by us on some or all the Services you use. **"Barred"** has a corresponding meaning. **"Channel"** means channel (associated with a unique channel number) through which programmes and other content can be viewed that forms part of a Package. **"Customer Care Centre"** means our customer care center, which contact details are listed on our Website. **"Chargeable Event"** for Digicel's prepaid Telephony Service this means the sending and receiving of Calls from the Equipment to the Digicel Network and/or outside the Digicel Network and/or receiving Calls on the Equipment from the Digicel Network and/or the Digicel Network. **"Customer Care Centre"** means our customer care centre which contact details are listed on our Website. **"Data Service"** means a transmission to access a data network, including the Internet, over Digicel's network. **"SIM Card"** means the Digicel subscriber identity module card which is connected by us to the Network. **"Equipment"** means all equipment, including any equipment provided by us for these Services including satellite dish, set top box, cables, modem, handset as well as connections to the Service, and all other accessories that we approve for use in relation to the Service. "Country" means the Republic of the Nauru Islands. **"Package"** means a type of subscription TV package made up of Channels that forms part of our Service as set out on our Website. **"Price List"** means a periodically updated publication which lists our current charges for the Services. "Handset" means the type-approved mobile handset or any other device used by you to access the Network and approved at its sole discretion by Digicel for use on its Network. "Internet" means the public international system of interconnected Computer networks and systems used to provide the Service of which Digicel has no control after the point on which Digicel is connected to the internet. **"Lock"** means (with reference to Equipment) Sim lock, network lock or subsidy lock built into the Digicel Broadband Modem, Handset or firmware by mobile manufacturers. **"Telecommunications Network"** means our mobile and/or other telecommunications network and systems used to provide the Service. **"Registration"** means the SIM card registration process for any Digicel Broadband or Digicel SIM card associated with the Services. **"Register", "Registering"** and **"Registered"** have a corresponding meaning. **"Service"** means (a) Digicel Play - any package of subscription TV services; (b) Digicel Broadband internet services; or (c) Digicel mobile telephony and internet services and related products and services that are made available to you by us or our agents from time to time. "Term" means the term set out in the Package. **"Website"** means our website as set out above. **"Digicel Play"** means Digicel (Nauru) Corporation (operating in Nauru). **"Our", "we"** or **"us"** means both Digicel and Digicel Broadband. **"You"** means the customer having a billing relationship with us and **"your"** has a corresponding meaning.

2. Agreement

This Agreement begins once we have accepted your application for the Service; or the first time you activate your connection to the Service, whichever is earlier. We may decline your application and refuse to activate your connection to the Service at our sole discretion. Subject to your payment for the Services and your compliance with these provisions, we will provide the Services to you for the Term. Please note that our partner dealers or any third parties are not authorised to amend this Agreement or to agree any provision which is inconsistent with this Agreement. Any notice from you to us must be sent to our postal address, or to an email address as notified to you from time to time for this purpose. Your interests in this Agreement are personal to you. You shall not assign or transfer this Agreement in whole or in part. This Agreement is governed by the Laws of the Country and we and you agree to submit to the exclusive jurisdiction of the Courts of the Country.

3. Your Responsibilities and Obligations

Your obligations: You must: Ensure your television (for Digicel Play), computer, tablet or other WiFi capable device (for Digicel Broadband) or Handset (for Digicel telephony) is suitable for connection to the Service and you adhere to all the Service guidelines as released by us. You must ensure that nothing is connected to the Service other than equipment that we approve; Ensure that you have all the necessary consents from the owner of the premises on which the Equipment is to be installed; Be solely responsible for the manner in which the Equipment is used, including for paying all tariffs, charges and debts arising from the use of the Service (whether authorised or unauthorised); Comply with all of our reasonable instructions and those of relevant authorities, in particular with respect to using the Equipment and/or Service, the investigation of offences and/or the migration to newer technologies; Immediately report, and confirm in writing, if your equipment or our equipment is lost, stolen, damaged or used without authorisation; Protect us against any legal action taken against us in connection with your use of the Services and any other use of the Equipment; Reimburse us for all costs and expenses, including reasonable legal fees, incurred as a result of us deeming it necessary to enforce our rights under this Agreement by way of legal or other action; and Ensure that anyone using the Equipment also complies with this Agreement. Not resell our Services or Products without our express written consent. Not violate the rights of any other person. Not introduce malicious programs onto our Server or attempt to breach any Computer network or other persons device through use of our Services, interfere or deny service to any other user or host, nor circumvent user authentication or security of any host, network or account.

Piracy: You indemnify us against any cost, expense (including legal expense to enforce this Agreement), damage, injury, loss (including loss of revenue), liability, claim, action, or proceeding if you: Copy any of the programmes, data or content included on a Channel to re-transmit them later, or for any reason; Cut, edit, dub, voice-over, sub-title, reformat or otherwise change or make additions to any programmes, data or content included on the Channel; Incorporate part of the programmes, data or content therein as part of any Mobile TV, high definition, Interactive TV, PPV, VOD or NVOD services or otherwise exhibit or cause the exhibition of any of the Channels or any stills, extracts or data from any Channel or the programmes therein via the internet or any other local or area-wide computer network; Reformat or convert the Channels or any part of the programmes, data or content therein in any manner whatsoever, including without limitation reformatting so that it appears on less than the full screen of a Television, or converting to any high definition format; Add or super-impose any data, crawler, button or other item into the Channels except as may be agreed in advance and in writing by us; Superimpose or otherwise add any third party advertising, promotions, programmes, data, content, copyright, trademarks, trade names, logos, names and/or likenesses on any Channel, Digicel Play Pacific Marks or Digicel Play Pacific promotional materials; Use any copyright, trademarks, trade names, logos, names and/or likenesses, or any part of them, included in programmes on any Channel; or Knowingly authorize or cause or knowingly permit any portion of the Channels to be recorded, duplicated, cablecast, exhibited or otherwise used (except on videocassette recorder or other home or personal recording device for lawful, private, non commercial use) for any purpose.

Unsolicited Messages: You must not make a call, nor send any mail bomb, unsolicited (SPAM) email or SMS; or any defamatory; or abusive message; or online post; which may contravene the laws of the Country or the privacy of our Customers. We reserve the right to report such to the appropriate authorities.

4. Provision of Service

• We do not represent or warrant that the Services are available throughout the Country. The quality and availability of the Service may vary from place to place and time to time. We do not represent or warrant that the operation of a Service will be uninterrupted, timely, secure or error-free or that it will meet you or any other person's specific requirements.

• We are only able to provide services only in areas covered by our Telecommunications Network or broadcasting network (as the case may be). We do not warrant that our Services will be continuously available or fault free and without variance. We do not warrant that a Service is available throughout the Country and you must confirm with us beforehand in case you cannot use our Services in your area. If so, you must inform us within seven (7) calendar days of your purchase that the Equipment cannot work in your area (failing which you are deemed to accept the Service) and if proven after a site test by Us that the Service cannot work at all we may either (a) provide an alternative; or (b) refund you for the Service advance payments and the Equipment cost (if returned to us unused), but we will not refund the installation fee.

• For our Digicel Play and Digicel Broadband Services we will provide you with the Equipment to receive the

Service upon payment of an installation fee. The installation packages are as set out on our Website. When we install the Equipment, you must provide safe access to your premises. You must provide electricity and power points for the Equipment at your own expense.

• We are not responsible for the security of any calls, data or SMS. You use the Service at your own risk and must adopt security measures against unauthorized access to your Equipment, data and personal information.

• For our Digicel Play Service certain programs transmitted by us, including but not limited to some pay per view programmes, may be blocked out in your area of reception due to broadcasting license requirements. If you circumvent or attempt to circumvent any of these blackouts, you may be subject to legal action.

• We reserve the right to vary the Service at any time, including the programs, channels, products, content, transmission times, or the aesthetics of the Service. We reserve the right to migrate to newer technologies and will notify you of such change, and to replace any Equipment provided to you with new Equipment.

• We may monitor your use of the Service.

• Without limiting any other provisions, you must comply with our reasonable instructions on the use of the Service in the interests of safety, quality of service, other customers, or for any other reason that we consider is desirable.

• If a parental control function is available, it is your responsibility to activate the function and keep the PIN number safe and secure. You agree and acknowledge that Digicel is not responsible for the content of the Service, does not endorse that content in any way, and does not monitor, control or censor that content.

• Software provided to the Customer is licensed (or sublicensed) to the Customer only for use with these Services. We retain all our intellectual property rights in the Services, in any hardware or software provided, and in our website.

• For your use of Data Services with your Digicel pre-paid SIM Card or Digicel Broadband Modem you acknowledge that your computer or device (handset or tablet) may automatically download updates which will utilize your data and that software, games, online streaming sites, mp3 music files and use of data sharing software such as torrents or P2P sharing all utilize high amounts of data and should we determine your traffic use was excessive and detrimental to other users of the network we may suspend, terminate or report such usage to the authorities.

5. Service Charges

Our Services are subscription based. You may subscribe to our "TriplePlay" bundled Services on a "Pay As You Go" basis (including via USSD) or a "Bill Pay" basis. We may require you to pay a deposit or another form of security, and may change our requirement from time to time. If Bill Pay subscription is approved, we will bill you monthly in advance. Payment is due within 5 working days unless our bill specifies otherwise. For all Services any pre-payments or credit balances remaining on your account will expire 6 months after you last activate your account.

Price list: We normally offer a range of price lists with different tariffs and methods of charging. You should read the relevant price lists and tariff rules which are available from us, our authorised dealers, the Customer Care Centre and from our Website and/or media. We may cease offering, modify and/or replace its price lists and rules from time to time for any reason, including due to currency devaluation.

SKY PACIFIC: Multi-room service: If you receive the Services at different location(s) (including within a single dwelling) using additional Equipment & Accessories per location, we may deem each location as a separate account under you unless you have a multi-service account with us. You must not directly or indirectly use, or allow to be used, a single account for multiple set top boxes ("STB") at different locations without our prior approval.

6. Payment

You subscribe to the Service by agreeing to the terms of this Agreement and by paying an initial connection fee (if applicable in the relevant Country) as per our Price List. To continue using the Service, you must pay the charges applicable to your Package as set out on the Price List. You must pay for the Service no matter who uses them. Consumption tax, VAT or other tax, regulatory fees, surcharges and other charges incurred in relation to the Service will be charged to your account.

• **For our Digicel Broadband and Digicel Play Monthly Prepaid Services:** You must give us accurate billing information including your legal name, postal address and telephone number. We are not liable for any loss or damage suffered as a result of the use of, or failure in, any methods or services used by you pay invoices. If payment is by cheque or any other instrument, we may charge a return fee should the cheque or other instrument be dishonored. We may reject and/or disallow cheque payments from you once dishonored cheques have been processed through your account. We are in no way obligated to provide Service to you if you default in paying any sums due. We may charge a reconnection fee, revise your payment terms and/or restrict your Service/feature types. We reserve the right to refuse to reconnect you. Payment is due before the first day of the billing month. We are not responsible for non-receipt of invoices delivered by post. You must continue to make payments even when postal service is disrupted. We reserve the right to contact you by methods other than post to seek payment of amounts due. You must pay any costs that we reasonably incur to collect monies you owe.

• **For our Prepaid Digicel Service:** You pay for the Service by buying a voucher and activating it through us. We are not obliged to refund to you when you buy more call time than you intend to use for any reason. Whenever you use the Digicel SIM card and/or Services, no matter who uses them (with or without knowledge and/or consent), your account credit will reduce accordingly and when there is no further account balance you may be barred. If you have a voucher which is faulty, return it to our Customer Care Centre for a replacement.

7. Equipment and Connection to the Service

To receive the Services, you must use the equipment that we supply ("Our Equipment") or you purchase and we approve ("Your Equipment").

If you purchase Your Equipment: Your Equipment is your responsibility. You must take every precaution to keep it safe. You may only connect to the Services using Equipment, as well as related accessories, that we have approved. We are not responsible for lost or stolen Equipment and you will continue to be liable to pay to us any amounts owing to us under this Agreement in respect of the Equipment.

If you lease/rent Our Equipment: You expressly agree that the title to any of Our Equipment shall remain vested in Us. All title of Our Leased Equipment and accessories remains with Us, you shall take all appropriate steps to notify third parties of Our title to the Equipment. You shall have no right to pledge, sell, mortgage, give away or remove, relocate, alter, unlock or tamper with the Equipment (or any notice of our ownership thereon) at any time - should you tamper or Unlock the Equipment then your Warranty (Clause 8) will be void and you must pay the remainder of the full cost of the Equipment (example F\$250 for Digicel Broadband Modem). We reserve the right to take back Our Equipment from you if you fail to either pay for one month worth of Services. You are expected to subscribe to at least 22 months of Service during within the 24 month Term.

Satellite Dish: If you already have a Satellite Dish set up in your premises, you may request us to re-Purpose the Satellite Dish provided you confirm and warrant that the title and ownership of the Satellite Dish vests in you or that the owner of the Satellite Dish consents to the Satellite Dish being re-configured. You will fully defend, indemnify and hold Digicel and its employees, agents and contractors harmless from any and all claims, demands, lawsuits, causes of action, and/or damage brought by anyone claiming to own or have legal title to the Satellite Dish.

Set Top Box ("STB"): If you buy the STB from us at a subsidized price, we retain a lien in the STB. The lien gives us a right to buy-back the STB at the original price less a reasonable deduction for depreciation or obsolescence. You must not sell the STB to anyone else or give it away.

Smart Card and Software: Each STB contains a Smart Card (usually not removable). The Smart Card remains our property at all times even when you buy the STB from us. You must not tamper with or modify the Smart Card. Each Smart Card contains software that belongs to us. We may remotely download software updates from time to time, without prior notice.

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8. Manufacturer's Warranty

Equipment warranty is as provided by the manufacturer only. Digicel does not provide any equipment warranty.

9. Customer Information and Disclosure

You acknowledge and expressly agree to us, and companies in our group, collecting information about you, including your personal information. Such information may be collected from you and others or generated within our Network when you or anyone else uses the Service or any other service. In this Agreement, personal information means information or an opinion (including information or an opinion forming part of a database) whether true or not, and whether recorded in material form or not, about an individual whose identity is apparent, or can reasonably be ascertained from the information or opinion.

You acknowledge and expressly consent to us, and companies in our group, using your personal information for any lawful purpose including providing you with the Service, account management, billing, debt collection, credit assessments, directory purposes, market research, customer profiling, product and service development, customer profiling, product, for targeted marketing, big data analysis, marketing and customer care. You acknowledge and expressly consent that Digicel may: (a) disclose your information (including your personal information) to a 3rd party in order to provide services to You or if Digicel reasonably believes that the 3rd party provides goods or services that may be relevant to or of interest to You; and (b) use, copy, reproduce, process adapt, publish, transit, display and distribute data (including your personal information) collected in any media including the transfer of this information to other jurisdictions to the extent permitted by law for storage, and processing and that Your information may be retained for a reasonable period of time in a secure environment. You acknowledge that calls to our Customer Care Centre may be recorded for training and quality control purposes.

10. Suspension & Termination

We may, without notice, bar Services and suspend or terminate this Agreement wholly or partially for any of the following reasons: you supplied at any time false, inaccurate or misleading information to us; you fail to comply with any provisions of this Agreement, any relevant law or any of our intellectual property rights; if for any reason we are unable to provide the Service to you or if intermittent checks, modifications and/or maintenance are deemed necessary to the Service; you fail to pay us any sums due under this Agreement or any other agreement between us and you; if we have any reasonable grounds to believe that you are a credit risk and may not be able to pay for the Service; you are adjudicated bankrupt, become insolvent or make any composition or arrangement with or assignment for the benefit of creditors; you die or, in the case of a partnership, it is or is intended to be dissolved; your usage of the Service is unusual or excessive; Our Equipment (if any) has been lost or stolen; or we are reasonably of the view that you are conspiring to defraud us or interfere with the operation and quality of the Service, including without limitation causing congestion. We do not need to suspend your Service before terminating this Agreement. During Service suspension, we may disconnect Our Equipment from the Service and you shall remain liable for all charges owing to us unless we decide otherwise. We reserve the right to determine whether to reconnect you to the Service and may charge a reconnection fee. Upon disconnection from the Service, any credits in your Account will be forfeited. If we exercise any rights under this clause, this shall not prejudice or affect any other right or remedy which may be available to us. We may, at our sole discretion, terminate this Agreement for any other reason.

Unless you have agreed to subscribe to a service, for a pre-determined period longer than 30 days, you may cancel a service by giving us 30 days written notice provided you have (a) paid all accrued charges; and (b) returned all equipment to us (for DigicelPlay & Digicel Broadband) or paid for the equipment not so returned (Modem AUD250 and Dish AUD150 as well as STB AUD100 during which time you continue to be bound by this Agreement. Until all accrued charges are paid and Equipment returned or paid for, your monthly charges for the Service shall continue.

For Postpaid Mobile, an early termination fee (based on the monthly recurring charge) applies if the Customer terminates Service or converts a postpaid service to a prepaid service before the minimum service period expires.

On final termination of this Agreement (for whatever reason): your right to use the Service ceases immediately; all fees and charges for the Service and all other amounts you owe us become immediately due and payable; you must immediately return Our Equipment and any accessories we provided; you shall not be entitled to any refund for any amounts paid in advance to us.

11. Digicel SIM Card or Digicel Broadband SIM Card

You have no proprietary rights, legal interest, or goodwill in any mobile number or any other number allocated to you by us from time to time. You must not interfere with or destroy the Digicel SIM Card for any reason or allow it to be handed over to any other carrier (without our prior written consent). Any Digicel SIM Card that is lost, stolen or damaged (through no fault of ours or the manufacturer) will require payment from you for its replacement, exchange or repair. You must pay all Service charges up to the time you notify us of the loss or theft of your SIM Card and your SIM Card is deactivated.

12. Exclusion of Liability

To the maximum extent permitted by law We and Our officers and staff, are not liable for any loss or damage, whether in contract, tort or otherwise, sustained by you or any other person in connection with this Agreement or its subject matter, including direct or indirect loss or damage caused by the negligence or willful act or default of Digicel or others, whether consequential or otherwise, and whether or not reasonably foreseeable. This Agreement contains all the warranties and conditions given by Digicel in connection with its subject matter. Digicel excludes from application all implied warranties and conditions to the extent they may be excluded. If for any reason we are liable to you in any way, our liability in respect of a claim or series of claims to you, or anyone claiming through you, will at all times be limited to the total amount of all payments made by you in the 6 month period immediately prior to the date of your claim. The exclusions and limitations in this clause apply for the benefit of companies related to Digicel or approved agents, other service providers we allow to use the Service

or who allow us to use their services, and every officer, employee, contractor and anyone else performing our obligations under any agreement you have with us. These exclusions and limitations apply to whatever you claim for and in whatever way any liability might arise.

13. Hold Harmless

You indemnify and hold us harmless against all loss, damage and injury caused to the Service as a result of your negligence or failure to abide by this Agreement and all claims made by third parties arising out of your acts or omissions, including negligent acts or omissions, in conjunction with the Services we provide. You fully defend, indemnify and hold us harmless from any and all claims, demands, lawsuits, causes of action, loss, liability, injury and/or damage of any kind whatsoever including without limitation all claims for property damage, monetary loss, personal injury, equitable relief, and/or wrongful death, whether brought by an individual or other entity or imposed by a court of law or by administrative action of any governmental body or agency that arises out of any acts negligence omission or willful misconduct in any way. This indemnity applies to and includes, without limitation the payment of penalties, judgments, fines, awards, lawyers' fees and related costs or expenses and any reimbursements to Digicel for all legal fees, expenses and costs that are incurred by it.

14. Miscellaneous:

14.1 Force Majeure: If we are prevented from carrying out any obligation in this Agreement by reason of any act of God, act of State, act of a national or international regulatory body, riot, insurrection, civil commotion, strike, sanctions, boycott, carrier dispute, embargo, an act or default of any supplier, agent or other person, fire, flood or natural disaster or any other circumstance which in our sole opinion is beyond our reasonable control, our performance of this Agreement may be suspended until such circumstances cease to exist. We will not be liable to you for a failure to perform, or a delay in performing, any obligation in this Agreement.

14.2 Unenforceability: If a provision of this Agreement is illegal, invalid or unenforceable in whole or in part for any reason whatsoever, then that provision is severed to the extent of its illegality, unenforceability or invalidity and the remainder of the Agreement shall remain in full force and effect. The parties shall use their best efforts to replace the severed provision by an enforceable provision that is as close to the original provision as possible.

14.3 No Waiver: Any delay to exercise any right or power under this Agreement will not be a waiver of that right or power.