

Airwire Customer Service Agreement Terms and Conditions

1. Scope

This Customer Service Agreement outlines the Terms and Conditions under which Airwire will provide and the Customer will receive the Services.

2. Interpretation

- i. "Company" or "Airwire" in these terms and conditions means Airwire Ltd., which is a registered company with the CRO under registration number 508961.
- ii. "Customer" means the subscriber offering to enter the contract or having established a contract with Airwire.
- iii. "Address" means the customers address in Ireland where the Equipment will be connected and Services provided.
- iv. "Normal Working Hours" means 9:00 a.m. to 5:00 p.m., Mondays to Fridays excluding public holidays.
- v. "Business days" means Normal Working Hours.
- vi. "Equipment" means the radio transceiver, mountings, cabling, connectors, electronics, ducting, wall outlet, routers, servers, network cards, software and any other telecommunications apparatus and/or any other equipment or materials supplied by the Company in connection or under license with third party suppliers.
- vii. "Initial Term" means the period of 6 months starting on the date on which the Services is fully provisioned. This may or may not be the date of installation, depending on circumstances. Full provision is determined by the start date of the first billing period.
- viii. "Services" means the telecommunications transmission services, such as Internet Access, voice services, E-Mail of related value added services noted overleaf or as changed from time to time in accordance with terms herein, whether provided directly by Airwire
- ix. "Network" means the Company's telecommunications network,

terminating at the wall socket, incorporating all equipment, licences, contractual rights and other materials or rights utilised in providing the Services.

3. Order processing, Provisioning and Activation

- i. Airwire reserves the right not to consider or process orders at its discretion. You agree and acknowledge that the geographic areas covered by the Airwire service are limited and even within the Airwire service areas technical or environmental issues may prevent, delay or degrade the activation or provision of service.
- ii. You must provide a valid email address when placing an order and maintain this address, or provide Airwire with an alternative address. Airwire will use this email address to contact you for all purposes under these terms.
- iii. If you wish to place an order you may do so by paying the installation fee required with notice of your name, address, telephone number and eventual email-address.
- iv. By placing an order you offer to enter into a contract for the purchase of the relevant service from Airwire, however your offer is not accepted by Airwire until such time as the ordered service has been installed and is ready for use (activated).
- v. If you cancel your order
 - (a) at any time up until the date of installation, you will be refunded the installation fee, minus a cancellation fee of 15%.
 - (b) at any time between date of installation and time of activation, you will be refunded the installation fee, minus a cancellation fee of 15% and minus labour costs incurred.
- vi. Subject to clause 3(i), Airwire will acknowledge receipt of your order and contact you as it processes your order and tries to provision and activate your service. Neither acknowledgement of receipt of order nor any subsequent communication shall be acceptance by Airwire of your offer to enter in to a contract.
- vii. In processing your order, Airwire will verify that your premises are in an area in which the service is available and carry out technical tests. However, occasionally it will not be possible to establish whether an ordered service can be activated until after installation at your premises.

- viii. Airwire may need to visit your premises to carry out tests, provisioning or activation to which you agree to such visits and to provide such other cooperation and assistance as Airwire may reasonably require. Airwire will liaise with you to arrange the timing of these appointments.
- ix. If an ordered service cannot be activated, Airwire will notify you as soon as possible. Your offer to purchase services from Airwire will automatically be rejected on technical grounds and any charges already collected will be refunded to you.

4. Service Contract: Formation, Duration and Termination

- i. Activation of your ordered service shall be Airwire's acceptance of your offer to purchase such service from Airwire. These terms shall form the contract between you and Airwire for the provision of such service.
- ii. Each Service Contract shall commence on the date the relevant service is installed. If your order comprises multiple lines with different activation dates, then each line shall be the subject of a separate contract from its date of activation.
- iii. Each Service Contract shall continue for a minimum of 6 months (Initial Term). Following the Initial Term, if any service or pricing is offered to you contingent on your commitment to a further contract term, then this further commitment shall be added to (and form part of) the Initial Term.
- iv. You may terminate a Service Contract by giving One (1) Months written notice to Airwire if:
 - (a) The Initial Term of such Service Contract has Expired
 - (b) Airwire notifies you of a materially detrimental change to a service or these Terms. In this case you may only terminate during the period of one (1) month following such notification; or
 - (c) If Airwire commits a material breach of such Service Contract and has not rectified such breach within thirty (30) days of a written notice from you requiring rectification.
- v. If you terminate any Service Contract otherwise than in accordance with clause 4(iii) and 4(iv), then you will be liable immediately to pay Airwire all charges due to the end of the Initial Term.
- vi. Airwire may terminate any Service Contract with you by written

- notice to you if:
- (a) The Initial Term of such contract has expired
 - (b) You fail to pay the amounts properly due to Airwire under any Contract
 - (c) You provide Airwire with inaccurate, or fail to update us with, the information required in the order
 - (d) You commit a material breach of any Service Contract and you have not rectified (if rectifiable) such breach within thirty (30) days of a written notice from Airwire requiring rectification
 - (e) You become or are deemed to be insolvent, bankrupt or are unable to pay your debts, you make an arrangement or composition with your creditors generally, you enter into liquidation whether compulsorily or voluntarily or you make an application to a court of competent jurisdiction for protection from your creditors generally or a petition is presented or a resolution is passed by you for your winding up or dissolution, an administration order is made in relation to you or a receiver or administrative receiver is appointed over or a person legally appointed to do so takes possession or sells any of your assets or notice of a meeting to carry out any of the foregoing is duly served
 - (f) Any authorisation which Airwire requires in order to provide the service is not obtained, withdrawn or otherwise cancelled, or
 - (g) An event outside Airwire's reasonable control which prevents continued provision of Service continues for more than thirty (30) days
- vii. If Airwire has the right to terminate any Service Contract, Airwire may in addition (without prejudice to, waiver of or extinguishing its right to terminate) suspend such Service Contract.
- viii. If a Service Contract has been suspended or terminated by Airwire, or by customers in accordance with clause 4(iii) and clause 4(iv), customers will incur a fee as outlined on our website at <http://www.airwire.ie/fee> if Airwire subsequently re-activates the Service at any time, providing the information provided by the customer in the initial order remains unchanged.
- ix. The termination or expiry of any Service Contract shall be without prejudice to the rights and liabilities of either of you or Airwire's accruing up to such date.

5. Service provision

- i. Airwire may from time to time make changes to its network or the technical specification of a Service. If these changes will materially detrimentally affect the service, Airwire will inform you in advance by email.
- ii. It is technically impracticable for Airwire to provide a fault free service and Airwire does not warrant or undertake to do so or to provide a service at all.
- iii. Airwire may suspend provision of a service :
 - (a) For operational or technical reasons (in which case Airwire will use reasonable endeavours to notify you prior to such suspension and to minimize the impact on you)
 - (b) If Airwire has reasonable grounds to believe that the Services are being used in breach of clause 7
 - (c) If your use of the Service may damage or disrupt the proper functioning of Airwire's networks
- iv. Except as expressly set out in this clause all other representations, warranties, terms and undertakings, express or implied, statutory or otherwise in respect of these Terms and each Service Contract are expressly excluded.
- v. These Terms are the exclusive statement of the agreement between you and Airwire related to the subject. They supersede all understandings and prior agreements, whether oral or written, between the parties. You and Airwire agree that they did not rely on any statement made by the other party before entry into the force of these terms and hereby waive any remedy which, but for this clause might otherwise be available to them in respect of any untrue statement (whether made innocently or negligently but not fraudulently) before entry into force of these terms.

6. Equipment Supply

- i. You may from time to time purchase certain Equipment (comprising hardware and associated software) ("Equipment") from Airwire, in which case the order process set out in clauses 3 and 4 above shall apply except that the service contract shall be formed and fulfilled by delivery of the Equipment to you. Risk and title (where applicable) shall pass to you on delivery. You shall only have a right to reject the equipment as set out in the applicable manufacturer's limited warranty and the terms below shall apply:
- ii. If Airwire supplies you with Equipment:
 - (a) Equipment is subject to a limited manufacturers guarantee in accordance with the documentation provided with the Equipment. Such relevant documentation shall govern such guarantee, but you should be aware in general manufacturers guarantee only provides for (at manufacturers option) replacement, repair or refund of Equipment which does not function in months (in the case of hardware) and thirty (30) days (in the case of software) from the date of delivery and that the limited guarantee is conditional on the Equipment being used in accordance with any applicable end-user terms, manufacturers instructions, without misuse, without excess wear and tear, without improper use or neglect, without end user attempted repair and that you will be required to bear the cost of any return of Equipment to Airwire or the manufacturer unless Airwire informs you otherwise in writing
 - (b) Any malfunction or manufacturers defects or other defects, outside the control of Airwire, of Equipment either sold or provided by Airwire to you or purchased directly by you used in connection with the service will not be deemed a breach of Airwire's obligations under these terms. Any rights or remedies you may have regarding the performance or compliance of Equipment are limited to those rights extended to you by the manufacturer of such Equipment.
 - (c) Airwire is acting as a reseller or distributor of such Equipment and makes no, and expressly excludes, any representations, warranties, terms and undertakings, express or implied, statutory or otherwise as to the quality (satisfactory, merchantable or otherwise), fitness for any purpose of such Equipment, interoperability of such Equipment or that your Equipment will operate correctly in the event of a power failure
 - (d) Such supply is subject to any end-user license terms applicable to such Equipment, which you accept
 - (e) You shall not resell, transfer, export or re-export any Equipment,

- or any technical data derived from such Equipment, in violation of any applicable Irish or foreign law; and
- (f) You shall ensure that any Equipment connected to a service is connected to and used with the Service in accordance with relevant published instructions and any safety and security procedures notified to you
 - iii. If Airwire supplies you with the installation services then you agree to procure access to all appropriate sites for engineers and authorised personnel at mutually agreeable times and provide such cooperation and assistance as they may reasonably require. Airwire shall meet your reasonable requirements about the safety of Airwire's people on your premises and you shall meet Airwire's reasonable requirements about the safety of Airwire's people on your premises.
 - iv. Airwire will supply antennae, brackets, poles, cabling, power over ethernet unit, power supply and this equipment will remain in ownership of Airwire at all times. Equipment shall not be adjusted or in any way tampered with. Additional equipment purchased by the customer (eg wireless router, hub, etc) will remain within ownership of the customer.

7. Your Obligations

- i. You agree that :
 - (a) Airwire has the authority to carry out works to provide you with the Services at any of your sites at which Airwire is providing the Services
 - (b) You will not use, or allow others to use, the Services:
 - i. for any improper, unlawful, fraudulent, criminal or otherwise illegal activities
 - ii. in a manner which is indecent, offensive, abusive, defamatory, menacing, obscene or harassing
 - iii. to send, knowingly receive, upload, download or use any material which is offensive, abusive, defamatory, menacing, obscene or harassing
 - iv. to breach any intellectual property rights, including without limitation, copyright
 - v. to breach any other third party rights, such as, without limitation, confidence, privacy or any other rights
 - vi. to make offensive, menacing, nuisance or hoax calls
 - vii. to cause annoyance or needless anxiety
 - viii. to send, provide, facilitate or knowingly receive responses to

- ix. any spam or unsolicited advertising or promotional material to knowingly or negligently transmit any electronic material (including viruses, worms, Trojans, backdoors or spyware) which shall cause or is likely to cause detriment or harm in any degree to computer systems owned by Airwire or other internet user
 - x. to knowingly or negligently permit or participate in any mail bombing or denial or attacks
or
 - xi. to degrade the performance of the Airwire network or services;
- (c) safeguard security information
 - (d) ensure that the registration data about yourself specified in the order is updated to keep it accurate
 - (e) only use and connect Equipment and / or networks to the Airwire network that are approved and comply with all relevant legislation, standards and license requirements
 - (f) comply with these Terms and any reasonable instruction Airwire gives you; and
 - (g) indemnify Airwire against all losses, liabilities, costs (including legal costs) and expenses which Airwire may incur as a result of any third party claims against Airwire arising from, or in connection with, your use or misuse of the Service, or breach of these Terms and/or any service contract
- ii. Airwire may without notice to you examine, monitor or record from time to time, the use to which you put the Services and the nature of the data / information that you are transmitting / receiving via the Service where such examination, monitoring or recording is necessary:
 - (a) to protect and / or safeguard the integrity, operation and functionality of the Airwire (and neighbouring) networks
 - (b) to cooperate or comply with any investigation or enquiry of or by a competent authority, or any police, judicial, regulatory or governmental order, notice, directive or requests; or
 - (c) to substantiate or refute any reasonable suspicion Airwire may have in respect of your alleged or potential breach of these terms

8. Charges, Payment Terms and Credit Limit

Airwire Ltd.
(Registered in Ireland No. 508961)
VAT reg.: IE-98197870
Registered Office: Moy, Kinvara, Co Galway
<http://www.airwire.ie/>

- i. The charges applicable to Airwire's processing of any order and the provision of any Service or supply of Equipment (Charges) shall be the charges set out in Airwire tariff as set out in your completed application form.
- ii. Charges are of the following types:
 - (a) Installation charges: including Equipment and installation of such equipment, Brackets, Line testing
 - (b) Subscription Charges: including recurring monthly fee for use of the service
 - (c) Service Charges: including on-site service calls, where the issue was caused by the customer, third party on customer site or customer equipment.
- iii. Charges quoted in the Airwire tariff are, where not otherwise stated, exclusive of VAT. VAT rates as of writing of these terms and conditions are 21% for service and materials, 13.5% for labour.
- iv. Installation charges are charges made for the Installation of such Equipment necessary to provide the Service to your premises.
- v. Subscription Charges are charges made for the rental of a Service. The subscription charges which apply to your Service Contract for the Initial Term (6 months) are the Subscription Charges in force at the date you place your order and are not subject to change for the Initial Term. Subscription charges are due:
 - (a) by Direct Debit, monthly in advance
 - (b) by Invoicing, bi-monthly in advance
 - (c) by Credit Card/PayPal, quarterly in advanceIn case of failure to pay the Subscription Charges, like failed direct debit or returned cheque payments, an additional fee may incur. This fee is outlined on our website at <http://www.airwire.ie/fee>.
- vi. Service Charges are charges made for on-site service calls, where the issue was caused by the customer, third party on customer site or customer equipment. The standard charge for a on-site service call is outlined on our website at <http://www.airwire.ie/fee> as "Service call - non-Airwire issue".
- vii. Airwire does not issue monthly invoices however they can be provided on request. Invoices requested will by default be delivered by email. If an Invoice is requested via postal, an additional for shipping and handling applies. This fee is outlined on our website at <http://www.airwire.ie/fee>.

- viii. All amounts due to Airwire shall be paid in full (without deduction or withholding except as required by law) and you shall not be entitled to assert any credit, set off or counter claim against Airwire in order to justify withholding payment of any such amount in whole or in part
- ix. Airwire may charge interest on any overdue amounts payable from the due date until payment of all sums owing including interest.
- x. Airwire will suspend the connection automatically, if payment isn't received within 28 days from Invoice date.

9. Privacy and Data Protection

- i. in processing, provisioning, and activating your order, providing service, billing you and otherwise interacting with you as a customer, Airwire may collect, store and process data relating to you. We hereby undertake not to disclose or release this data in any form unless to cooperate or comply with any investigation or enquiry of or by a competent authority, or any police, judicial, regulatory or governmental order, notice, directive or requests; or
- ii. You have the right to request a copy of the information relating to you.

10. Limitations of Liability

- i. Nothing in these Terms shall restrict or exclude either party's liability for fraud or for death or personal injury caused by its or its employees or agents negligence
- ii. Subject to clause 10(i), neither party shall be liable to the other party or to any third party for any consequential Loss or Damages whether in Contract, tort or otherwise (including negligence). For the purpose of this clause (10(ii)) 'Consequential Loss or Damages' shall mean any economic loss (whether direct or indirect) including, without limitation, any loss of profits, anticipated savings, business, contracts, revenue, time or goodwill or loss or harm of data always provided that this shall not include:
 - (a) Charges payable
 - (b) The incremental cost to a party of procuring replacement Services in the event of default by the other party; and

- (c) The repair (or if the repair is not practicable, replacement) of any tangible physical property of a party intentionally or negligently damaged by the other party or its employees whilst on the first Party's premises
- iii. Airwire's liability to you is further capped as set out in clauses 12 and 13
- iv. Your sole and exclusive remedy in respect of any failure to meet any service levels (if applicable) set out in any service level agreement (if applicable) shall be to the compensation schemes set out in such service level agreement
- v. You shall at times be under a duty to mitigate any losses suffered by you
- vi. Each provision of this clause 10 is to be construed as a separate provision applying and surviving even if one or more other provisions of this clause is held inapplicable or unreasonable

11. Miscellaneous

- i. Airwire will not be liable for any delay or failure in performance of its obligations to the extent that such delay or failure is attributable to matters beyond reasonable control
- ii. Airwire may assign the benefit or burden of these Terms or any Service Contract upon notice to you. You may not assign the benefit or burden of these Terms or any Service Contract
- iii. Airwire's failure to exercise or enforce or any delay in exercising or enforcing any right or benefit conferred by these terms shall not be deemed to be a waiver of any such right or benefit nor operate so as to bar the exercise or enforcement thereof or of any other right or benefit on any later occasion
- iv. Subject to Clause 4 (iv) b, Airwire may change these terms from time to time.
- v. these Terms do not create any rights for, or enforceable by, any third party.

- vi. These Terms shall be governed and construed in accordance with Irish Law, and the parties irrevocably agree to the exclusive jurisdiction of the Irish Courts always provided that Airwire may commence proceedings against you in any jurisdiction in which you are incorporated, resident or hold assets
- vii. If a Customer moves house and wishes to continue the Service Contract at a new address, they must provide Airwire with 30 days notification; providing the new location is deemed suitable by Airwire, Airwire will move Equipment from the old premises and install at the new premises for fee. This fee is outlined on our website at <http://www.airwire.ie/fee>.
- viii.
 - (a) Airwire cannot ensure, and you agree take responsibility for, the compatibility of your computer equipment and software with web based applications, including the capability to send and receive emails (via the World Wide Web or through a POP3 / IMAP capable client); and you acknowledge and agree that Airwire exercises no control over, and accepts no responsibility for, the content of the information passing through our host computers, network hubs and points of presence or the Internet, and in particular, Airwire does not warrant that you will not receive or be affected by viruses, spam, or any other illegal material whether from the internet or otherwise through our network. This applies even though we may run identifying, protective or filtering devices or software as part of the service
 - (b) Airwire's service only complies in the configuration and set up of the installed Equipment and connection to the Airwire Service in accordance with our published Specification. It does not include any element of audit, design or connection to your equipment and Airwire makes no representations or warranty about the interworking, interoperability or compatibility of the installed Equipment with your equipment or end to end system functionality
- ix. the price of the service includes, where applicable, a provision for installation work of a type and quantity usual with services of this type. Airwire may need to raise supplementary charges if an unusually large amount of installation work is required, Airwire or its agent will seek agreement from you if such charges are necessary.
- x. you must have permission from your landlord to install if the premises are not owned by you.

12. Special IP Addresses and Terms

- i. Unless a static IP address is provided with the service you have ordered or you specify that you require a static IP address in your order you will receive either a dynamic or a static IP address at our discretion
- ii. In the event that Airwire assigns you a static IP address you should be aware that the IP Address is likely to be re-assigned.
- iii. Please be aware that it is required by RIPE (the European IP address authority) to document on an rwhois server whose entity is using the IP space. If you are assigned a static IP address, you consent to the inclusion of your name, company name, postal address, e-mail address, IP address and telephone number on the rwhois server.

13. Firewalls

- i. It is your responsibility to provide any firewall software / hardware, and any anti-virus software. It is strongly recommended that up-to-date Virus protection and Firewall protection be installed on your PC's.

14. Service limitations

- i. Our residential products are not suitable for resale and we will not assist with problems related to such.
- ii. Quality of Service may vary depending on the last mile connection from the customer to the basestation or the transmission via third party networks outside our own infrastructure. Due to these constraints we are not able to ensure latency dependant products (VoIP, Gaming, etc.) to work optimally or in certain cases not work at all.
 - (a) Problem solving in regards to these services are on a best effort basis and may not always be solvable.
 - (b) It is not deemed a material breach of the Service Contract by Airwire, if these problems are not solvable, but merely the service is not deemed fit for these products in such a case.

- iii. Airwire's service is symmetric, but upstream may vary depending on distance to basestation and signal quality. If the full upstream can not be achieved, the Customer has the choice of accepting the upstream as it is or downgrade to a smaller package. This is part of the contention calculation and Airwire will not compensate for a permanent lower upstream. The customer can however choose, not to go ahead with the installation and get a refund for the installation fee. This offer is only available on the installation date.

15. Support

- i. End user support will be provided according to the times on our website at <http://www.airwire.ie/contact>.
- ii. Customers will receive a response from Support within 5 working days from time of contact for customers on a residential package and within 2 working days from time of contact for customers on a business package.