

## TERMS AND CONDITIONS FOR WIMAX USERS

These terms and conditions govern all services related to the post-paid services using WiMAX (Worldwide Interoperability for Microwave Access) technology which include voice and broadband services and any other services that may be offered from time to time, if any (collectively, "Service"), provided by Packet One Networks (Malaysia) Sdn. Bhd. (571389-H) ("Service Provider") to you ("Subscriber").

(Each of Service Provider and Subscriber are hereinafter collectively referred to as "Parties" and individually as "Party").

**PLEASE READ THESE TERMS AND CONDITIONS CAREFULLY BEFORE SIGNING UP FOR THE SERVICE. BY ACCEPTING AT THE END OF THESE TERMS AND CONDITIONS, SUBSCRIBER CONFIRMS ACCEPTANCE OF THE TERMS AND CONDITIONS POSTED ONLINE AND THE TERMS AND CONDITIONS ON THE P1 4G REGISTRATION FORM. SERVICE PROVIDER RESERVES THE RIGHT TO UPDATE OR REVISE THESE TERMS AND CONDITIONS FROM TIME TO TIME. SERVICE PROVIDER MAY GIVE NOTICE OF AMENDMENT TO SUBSCRIBER IN SUCH A MANNER AS SERVICE PROVIDER DEEMS APPROPRIATE. CONTINUATION IN THE ACCESS OR USE OF THE SERVICE SIGNIFIES ACCEPTANCE BY SUBSCRIBER OF CHANGES TO THESE TERMS AND CONDITIONS.**

### 1. Definitions and Interpretation

The following words have the following meanings in this Agreement, unless the contrary intention appears:

**"Service Activation Date"** means the date when the Service commences, as more particularly described in Clause 3.3;

**"Designated Address"** means Subscriber's designated address as stated in Subscriber's Application Form (as more particularly described in Clause 5.1);

**"Packet One"** means Packet One Networks (Malaysia) Sdn. Bhd. (571389-H), or any of its related companies (as defined in the Companies Act 1965);

**"Packet One Network"** means equipment, software and facilities operated by Packet One to enable the provision of the Service to Subscriber;

**"Registration Date"** has the meaning ascribed to it in Clause 3.1;

**"Service"** is defined to include P1 4G services as set forth in the service specific schedule attached hereto;

**"Device"** means P1 4G Device;

**"Terms"** has the meaning ascribed to it in Clause 2;

**"Add-On Plan"** means any additional services provided by the Service Provider and subscribed for by the subscriber;

### 2. Provision of Services

Service Provider agrees to provide and Subscriber agrees to use the Service subject to these terms and conditions, including any schedules and exhibits, as amended by Service Provider from time to time ("Terms").

### 3. Commencement of Service

3.1. These Terms shall become effective on the date on which Service Provider accepts Subscriber's application for the Service ("Registration Date") and, subject to contrary provisions provided herein, shall continue to be effective until all Service provided hereunder has expired or duly terminated.

3.2. Service Provider reserves the right to decline any application without assigning any reason thereto.

3.3. The Service (as defined below) shall commence on the date on which the Service Provider activates the service (Service Activation Date). Subscribers need to create the online P1 4G Self Care account once their Service is activated.

### 4. Application for the Service Registration

- 4.1. Subscriber shall execute a registration form which shall comprise the Subscribers details, the subscribed plan and product, Device information and payment method
- 4.2. Subscriber shall ensure that all information submitted to Service Provider for the purpose of subscribing to the Service are accurate, current and complete and Subscriber undertakes to inform Service Provider of any updates to such information in accordance with Clause 15 below.

## **5. Service Availability**

- 5.1. Availability of the Service shall only be at areas and premises designated ready to receive the Service, which will be defined by the Service Provider.

## **6. Service Packages**

- 6.1. The Subscriber has the option to select a service plan and the service speed as described in the P1 4G Registration Form or on Service Provider's website.
- 6.2. The Service Provider shall decide on the pricing for the packages mentioned in Clause 6.1 and shall notify the Subscriber upon registration to P1 4G services.
- 6.3. For plans with Contract Period, the Contract Period shall commence on the date of Service Activation and ends after the Contract Period.
- 6.4. Once the Contract Period ends, the Service will continue automatically on a month to month basis and there is no restriction on the Subscriber to choose any of the available service plans at that time to continue the service.
- 6.5. For plans without Contract Period, the Service will commence upon registration and activation of the Device.
- 6.6. Subscriber who wishes to subscribe for any Add-On Plan must also currently be subscribed to a selected Service plan as provided by the Service Provider, such Service plan to be active and valid during the term of the subscription.
- 6.7. For a non-Contract Period rental plan, the Subscribers will be allowed to upgrade and downgrade the service at any time from the date of Service Activation (for new subscribers). Service Provider reserves the right to levy or waive charges for such customer request, said charges to be determined from time to time based on administrative and operational costs.
- 6.8. For other service packages, upgrade of the service is under the sole discretion of the Service Provider. A charge of Ringgit Malaysia Ten (RM10.00) will be charged on the Subscriber for each upgrade made and will be reflected on Subscriber's next bill from their upgrade. PROVIDED HOWEVER that the Service Provider shall be at liberty to amend said charges from time to time.
- 6.9. At the end of the contract period, the Subscriber has the option to upgrade or downgrade their previous service plan and an Administrative Fee of Ringgit Malaysia Ten (RM10.00) is charged to the Subscriber for every upgrade or downgrade made to the service plan. PROVIDED HOWEVER that the Service Provider shall be at liberty to amend said fees from time to time.

## **7. Delivery of the Device (Device) (only applicable for West Malaysia)**

- 7.1 Each Subscriber shall receive the Device and other items in a package for the Service subscribed.
- 7.2 Upon successful registration, Subscriber has the option to request the Device to be delivered to the premises. Should Subscriber choose the Device to be delivered, the Device shall be delivered to the Service Address as stated in the Registration Form or otherwise ("the said Premise") specified by the Subscriber and shall determine the delivery date of the Device to the said Premise.
- 7.3 In the event the Subscriber is not available during the delivery of the Device, acceptance by a third party shall be considered as a successful deliver of the Device to the Subscriber.
- 7.4 The proposed Delivery Charge in the sum of Ringgit Malaysia Twenty (RM20.00) shall be borne by the Subscriber upon registration.
- 7.5 The Subscriber shall ensure that the Device and any part thereof is in good and working condition during the service and in the event the Device or any other items in the package is damaged or lost due to the negligence of the Subscriber, the Subscriber shall immediately inform the Service

- Provider and purchase a replacement from the Service Provider only. Notwithstanding whether the Subscriber has a non-Device rental plan or Device rental plan, the replacement cost of the Device shall be the then market retail price as published on the website [www.p1.com.my](http://www.p1.com.my).
- 7.6 However, if the Device or any part thereof is damaged or lost and which is not caused by the negligence of the Subscriber, the Subscriber shall inform the Service Provider in writing together with the submission of the relevant documents i.e. police report etc wherein the Service Provider shall reserve the right to investigate whether to replace the Device or any part thereof with a fee or otherwise.
- 7.7 In the event the Subscriber terminates the Service provided within seven (7) days of Service Activation, Subscribers will be classified to be under the Cooling Off Period (here on known as "COP") policy and the total sum is refunded via cheque posted to the Subscriber within forty-five days upon successful termination of the service. In the COP policy, the Device and all other items in the package as per the registration , has to be returned to the Service Provider immediately within seven (7) days from the date of Service Activation in good and working condition to the standard acceptable by the Service Provider and/or its authorized agents failing which the Service Provider shall take all necessary action including legal action to claim the same from the Subscriber and all and any legal costs shall be borne by the Subscriber.
- 7.8 For Device rental plan only, in the event the Subscriber terminates the Service provided after the seven (7) days COP policy, the Device and all other items in the package included as per the registration, has to be returned to the Service Provider in good and working condition to the standard acceptable by the Service Provider. In the event of failure to do so, Subscriber shall be charged with the replacement cost of the Device which shall be the then market retail price, AND the payment of the same to Service Provider shall be a continuing debt due, recoverable by legal action if necessary, for which the Subscriber shall be liable for all costs and expenses incurred by Service Provider.
- 7.9 In the event the Subscriber terminates the Service in the Device rental plan at any time, the Service Provider shall rebate the sum of Ringgit Malaysia Fifty (RM50.00) only within forty-five (45) days upon receiving the Device in good and working condition. If the Device is not in good and working condition to the standard acceptable by the Service Provider, the sum of Ringgit Malaysia Fifty (RM50.00) will not be refunded. The Subscriber shall bear and compensate Service Provider the then market retail price as published on the website [www.p1.com.my](http://www.p1.com.my) if the Device is not returned to the Service Provider under this plan.

## **8. Charges**

- 8.1. The charges and payments for the Services are based on the type of Services subscribed.
- 8.2. Except as otherwise provided in these Terms, the Subscriber shall be billed for the services subscribed accordingly on a monthly basis. When the Subscriber activates the Services, pro rated charges apply.
- 8.3. The first bill shall include Activation Fee, Delivery Charges (if applicable), Full One-month Advance Monthly Access Fee, Device Charge, Pro-rated Monthly Access Fee and other charges (if applicable). The subsequent months fees shall be payable in the relevant months.
- 8.4. A soft copy of the monthly bills can be viewed online via Self Care portal in which the Subscriber shall receive an e-mail notification once a new bill has been placed online. In the event the Subscriber wants the monthly bill or a one time bill in paper form, a fee of Ringgit Malaysia Five (RM5.00) shall be charged per bill.
- 8.5. Payment of fees due and payable by the Subscriber to the Service Provider shall be made via auto debit by credit card, cash and other modes of payment acceptable by the Service Provider and the billing date shall commence on the Activation Date.
- 8.6. Subscriber shall be liable for and shall promptly pay to the Service Provider, within the time period specified in the Service Provider's bill for the Service, all charges, fees, costs or other amounts

- whatsoever shown in Service Provider's bill, notwithstanding that the Subscriber may dispute the same for any reason whatsoever.
- 8.7. In the event the amount stated in Service Provider's bill or any part thereof remains unpaid after the due date, the Service Provider reserves the right to temporarily suspend the account and charge the Subscriber interest on the sum that remains unpaid at the rate of 1.5% interest per month to be calculated from the due date to the date of full payment, or Ringgit Malaysia Ten (RM10.00) whichever is greater. Acceptance of late or partial payment shall not waive any of the rights of the Service Provider to collect the full amount of the charges for the Service. Notice of any disputes must be made by the Subscriber in writing to the Service Provider within thirty (30) days of the date of the relevant bill or Subscriber shall be deemed to have waived any objection.
  - 8.8. Subscriber is obligated to conduct a reasonable inquiry in the event that the Subscriber has not received the bill within the expected period. Subscriber acknowledges that non receipt of any statement of account, bill, statement or any correspondence in relation to the Service subscribed shall not be a valid reason for the Subscriber to withhold or delay any outstanding payments to Service Provider.
  - 8.9. Service Provider may from time to time revise the registration fee, activation fee, Device price and any other fees and charges for the Service. Service Provider may decrease the fees without providing advance notice. Increases to the fees for the Service are to take effect on such effective dates as may be specified by Service Provider provided that such effective dates shall be no sooner than thirty (30) days after Service Provider posts them on the website [www.p1.com.my](http://www.p1.com.my).
  - 8.10. In the event that the Services are re-activated after suspension, there is a re-connection fee of Ringgit Malaysia Ten (RM10.00).

## **9. Auto pay System**

- 9.1. The Subscriber shall complete and return the Autopay Enrollment Form to the Service Provider.
- 9.2. The Service Provider reserves the right at any time, and from time to time, without being liable to the Subscriber or any third party whatsoever, to discontinue, interrupt, withdraw or suspend this service or vary any terms and conditions for such period of time the Service Provider shall deem fit for any reason whatsoever.
- 9.3. The Subscriber hereby authorizes Service Provider;
  - 9.3.1. to release details of the Subscriber's account monthly bills to the Acquiring bank for VISA/MasterCard/American Express;
  - 9.3.2. to automatically debit these billed amounts to the Subscriber's Charge Card/Credit Card account. The full bill amount will be debited until the Subscriber withdraws from the Service.
- 9.4. The bill amount will be automatically debited to the Subscriber's Charge Card/Credit Card account upon approval by American Express/the respective Issuing Banks.
- 9.5. In the event of a rejection as provided in Clause 9.2 above, the Subscriber will be informed by Service Provider and the Subscriber will accordingly be liable to settle all sums due to Service Provider directly. In this instance American Express/Acquiring or Issuing Bank shall not be liable for any claims demand of losses arising there from.
- 9.6. Any inquiries or disputes pertaining to the Subscriber's Internet service bills should be directed to Service Provider and NOT American Express/the Issuing Bank/ the Acquiring Bank.
- 9.7. The Subscriber must inform Service Provider in writing of changes in Charge/Credit Card account numbers, including new account numbers issued under "lost card" or "conversion"; termination/cancellation of charge/Credit Card accounts; changes or renewal of expiry date. Changes involving new account numbers will require re-enrollment and submission of a new Enrollment Form.
- 9.8. The Subscriber must charge their bills to the Charge/Credit Card account in their name only (solely or jointly). Any variation from this clause will require expressed permission from the Cardholder in writing.

- 9.9. This service is only available to Subscriber holders of American Express / VISA / MasterCard with Charge / Credit Cards issued by Malaysian financial institutions.
- 9.10. Service Provider reserves the right to require the Subscriber to settle any amount billed using other means of payment from time to time.
- 9.11. By completing this form, the Subscriber hereby declares that the information given is true, valid, correct and complete.

## **10. Subscriber's Responsibilities**

- 10.1. Subscriber shall:
  - 10.1.1. be responsible for the set-up or configuration of his/her/its own equipment for access to the Service;
  - 10.1.2. comply with all notices or instructions given by Service Provider from time to time in respect of the use of the Service;
  - 10.1.3. be solely responsible for obtaining, at his/her/its own cost, all licenses, permits, consents, approvals as may be required for using the Service;
  - 10.1.4. comply with the rules of any network to which Subscriber has access through the Service;
  - 10.1.5. comply with and not contravene any and all applicable laws and regulations of Malaysia, whether relating to the Service or otherwise including but not limited to the Communications and Multimedia Act 1998;
  - 10.1.6. be solely responsible for all information retrieved, stored and transmitted by Subscriber through the use of the Service;
  - 10.1.7. obtain Service Provider's prior approval before making any changes to the network configuration and interconnecting the private network to any public network;
  - 10.1.8. be responsible for ensuring that Subscriber's personal computer is equipped with the necessary network card;
- 10.1.9. pay and settle all fees and any other charges due to Service Provider in accordance with these Terms;
- 10.1.10. abide and adhere to all Service Providers Terms and Conditions;
- 10.1.11. and comply with the provisions of all access agreements executed between Service Provider and third parties.

## **11. Prohibited Use**

- 11.1. Subscriber shall:
  - 11.1.1. not use the Service, any equipment, relevant technology and intellectual property rights for any unlawful purpose including without limitation for any criminal purposes;
  - 11.1.2. not use the Service to send unsolicited electronic messages or any message which is obscene, threatening or offensive on moral, religious, racial or political grounds to any person including a company or a corporation;
  - 11.1.3. not disrupt the normal use of the Service for other subscribers;
  - 11.1.4. not compromise or infect any systems with computer viruses or otherwise;
  - 11.1.5. not infringe any intellectual property rights of Service Provider, its related companies and subsidiaries or any third party;
  - 11.1.6. not gain unauthorized access to any computer system connected to the Internet or any information regarded as private by any person including a company or corporation;
  - 11.1.7. not share the Service with any person including a company or corporation without the prior written approval of Service Provider and shall use the Service only for the purpose for which it is subscribed;
  - 11.1.8. not resell or sublet the Service to any third parties;
  - 11.1.9. not modify, reverse engineer, translate, disassemble or decompile the Service and Device, or otherwise to attempt to derive the source code of the software that enables the Service and not use the Service in any manner, which in the opinion of Service Provider may

adversely affect the use of the Service by other subscribers or efficiency or security as a whole.

- 11.2 In respect of the Terms under Clause 11.1 hereinabove Subscriber shall indemnify and keep the Service Provider indemnified against all costs, expenses, loss and damages that may arise out of Subscriber's non-adherence thereof.

## **12. Security**

- 12.1. Subscriber shall take all such measures as may be necessary to protect his/her/its own system and network.
- 12.2. Subscriber shall be responsible for maintaining the confidentiality of his/her/its passwords, if any, (including without limitation changing his/her/its passwords from time to time) and shall not reveal the same to any other person.
- 12.3. Service Provider shall not be liable for any loss Subscriber suffers as a result of not keeping his/her/its password and other security information confidential.
- 12.4. Subscriber acknowledges that Service Provider shall not be liable for the security of Subscriber's data or passing over the Service or the Service Provider Network and that Service Provider shall have no obligation to ensure, and makes no representations or warranties concerning the security of such data. Subscriber shall be solely responsible for the data retrieved, stored or transmitted through the Service or the Service Provider Network.
- 12.5. Subscriber agrees that Service Provider is not liable for any unauthorized access to Subscriber's data even where the access occurs as a result of a fault in the Service Provider Network or any other equipment or software owned, operated or supplied by Service Provider.

## **13. Cancellation of Service**

- 13.1 In the event the Subscriber wishes to prematurely terminate the Service within the stipulated contract period, the Subscriber is required to execute a Service Termination Form and forward the same to the Service Provider by hand, postal mail, email or fax together with the sum of Ringgit Malaysia Two Hundred (RM200.00) only for non-Device rental plan and Device rental plan, being the cancellation and early termination fee. In addition, Subscriber shall return the Device at the time of cancellation, to the Service Provider, in accordance with Clause 7.8 above, or shall suffer the consequences therein stated.
- 13.2 Upon receiving the Service Termination Form, the Service Provider shall process Subscriber's Service Termination Request and determine the Service Termination Date. Subscriber MUST submit the Service Termination Form and Service Provider MUST receive the Service Termination Form thirty (30) days in advance before the Service Termination Date.
- 13.3 In the event the Subscriber terminates the services within the Cooling Off Period of seven (7) days upon Service Activation, the cancellation shall be effective upon fulfillment of the conditions mentioned in the policy.
- 13.4 Subscriber is reminded that In the event the Subscriber terminates the selected Service plan provided by Service Provider then any Add-On Plan shall also automatically terminate and Subscriber will have to pay for all termination charges involved if applicable.

## **14. Suspension of Service**

- 14.1. Without prejudice to any other rights or remedies and notwithstanding any waiver by Service Provider of any breach by Subscriber, Service Provider may suspend all or any of the Service for a period determined by Service Provider in its sole discretion in the event that:
  - 14.1.1. Any fees and / or payment due hereunder for the Service provided which has not been settled in full and remains due and payable to the Service Provider;
  - 14.1.2. Subscriber fails to comply with these Terms;
    - 14.1.2.1. there is reasonable suspicion of fraudulent or illegal activity by Subscriber;
    - 14.1.2.2. a legal authority requests Service Provider to do so; and / or

- 14.1.2.3. any scheduled or unscheduled outages occur which cause interruption to the Service, including but not limited to maintenance of Service Provider's equipment or systems.
  - 14.2. In the event of any suspension of the Service by Service Provider in accordance with Clause 14.1 hereof, Service Provider may if it deems appropriate at its sole discretion and upon such terms, as it deems proper reconnect the Service, in which event the Service and these Terms shall continue in effect as if the Service had not been suspended.
  - 14.3. In the event the device is lost, stolen, damaged or otherwise including but not limited to Force Majeure, the Subscriber shall report this to the Service Provider and may suspend the services until the said device is replaced at the Subscriber's own costs and expenses as stated within Clause 7 above.
  - 14.4. The monthly subscription and commitment fees or any fixed charges shall be charged to the Subscriber accordingly during the suspension period whether the suspension is voluntary or involuntary.

## **15. Change of Subscriber's Details**

Subscriber undertakes to update all information via online Self Care account of any change of Subscriber's information provided earlier to Service Provider. Failure by Subscriber to notify Service Provider of such changes shall be a waiver of Subscriber's right including the right to be notified under these Terms as the case may be.

## **16. Activation Period**

- 16.1. This Agreement shall commence on the Service Activation Date and shall continue for the duration of the contract period.
- 16.2. Notwithstanding Clause 16.1, Service Provider may at any time discontinue the Service or any part thereof or terminate the Agreement without having to give any reason by giving thirty (30) days written notice to Subscriber. Service Provider shall have no liability to Subscriber for discontinuance of the Service or any part thereof or termination of the Agreement pursuant to this Agreement.

## **17. Termination**

- 17.1. Without prejudice to any other rights or remedies of Service Provider under these Terms or at law, Service Provider may terminate any or all Service immediately, in the event:
  - 17.1.1. Subscriber breaches any term, condition, undertaking or warranty hereunder and such breach shall remain unremedied for a period of thirty (30) days after receipt of the written request to remedy the same;
  - 17.1.2. any event of Force Majeure occurs as specified in Clause 26 hereof, which continues for a period of more than sixty (60) days;
  - 17.1.3. Subscriber fails to comply with Service Provider's policy(ies) and/or instruction(s) communicated to Subscriber on-line and such non-compliance shall remain unremedied for a period of thirty (30) days after receipt of the written request to remedy the same;
  - 17.1.4. Subscriber is in breach of any provision under Communication and Multimedia Act, 1998 and the Malaysian Communication and Multimedia Commission Act, 1998 or any other rules, regulations, by-laws, acts, ordinances or any amendments to the above; or
  - 17.1.5. Service Provider has suspended any Service to Subscriber pursuant to Clause 14.1 and 14.2 above for sixty (60) days or longer.
- 17.2. Subscriber may terminate any Service upon providing thirty (30) days written notice to Service Provider subject to the Subscriber remains liable to pay all fees, costs and charges due to the Service Provider prior to the termination date and the early termination fee as stated in Clause 13.1 above.
- 17.3. Notwithstanding the termination by Service Provider pursuant to Clause 17.1, Subscriber shall remain liable for all fees due and owing to Service Provider during the subsistence of this

Agreement. Such termination shall not prejudice the right of Service Provider to recover all charges, costs and interest due and any other incidental damages incurred thereto.

- 17.4. Service Provider shall not be liable to Subscriber for any claim for damages or costs of any nature whatsoever arising out of discontinuance of the Service due to the termination or expiration of any Service or these Terms in accordance with its term including but not limited to any claim for loss of profits or prospective profits or for anticipated loss.

## **18. Disclaimer**

- 18.1. The Service is provided on an "as is" basis. Service Provider disclaims all warranties and representations of any kind, express, implied, or statutory including without limitation the implied warranties of title, merchantability, fitness for a particular purpose and non-infringement. Service Provider does not warrant that any of the Service will meet Subscribers' specific requirements or will be uninterrupted, timely and secure or error free.
- 18.2. Service Provider shall not be liable to Subscriber for any direct and incidental loss, cost, claim, liability, expenses, demands or damages whatsoever (including any loss of profits, loss of savings or incidental or consequential damages), arising out of Subscriber's use, misuse, or failure or inability to use Service provided by Service Provider hereunder. Service Provider's liability (if any) is limited to restore the Service if Service Provider decides that the Service is not up to par and not due to Subscriber's act or omission.
- 18.3. Service Provider shall not be liable in any way whatsoever for any loss or damage to any property or injury to any person howsoever caused, whether negligent or otherwise arising out of any installation and/or configuration where such task is conducted by Subscriber.
- 18.4. While every care is taken by Service Provider in the provision of the Service, Service Provider shall not be liable for any loss of information howsoever caused whether as a result of any interruption, suspension, or termination of the Service or otherwise, or for the contents accuracy or quality of information available, received or transmitted through the Service.
- 18.5. Subscriber shall be solely responsible, and Service Provider shall not be liable in any manner whatsoever, for ensuring that in using the Service all applicable laws, rules and regulations for the use of any telecommunications systems, service or equipment shall be at all times complied with.

## **19. Indemnity**

- 19.1. Subscriber undertakes and agrees to indemnify, save and hold harmless Service Provider at all times against all actions, claims, proceedings, costs, losses and damages whatsoever including but not limited to libel, slander or infringement of copyright or other intellectual property rights or death, bodily injury or property damage howsoever arising which Service Provider may sustain, incur or pay, or as the case may be, which may be brought or established against Service Provider by any person including a company or corporation whomsoever arising out of or in connection with or by reason of the operation, provision or use of the Service and/or equipment under and pursuant to these Terms and which are attributable to the act, omission or neglect of Subscriber, his servants or agents. This paragraph shall survive termination of these Terms and the Service.
- 19.2. Service Provider shall use its best endeavours to ensure the continuity and efficiency of the Service at all times but shall not be liable for any loss, damage, consequential or otherwise, arising out of any failure of the Service caused unless such default, error, omission or loss is due to the willful neglect or fault of Service Provider. Notwithstanding the aforementioned, the extent of Service Provider's liability shall be limited to correcting the failure of the Service only.

## **20. Confidential Information**

Subscriber shall at all times maintain the confidentiality of all information imparted to him/her/it pursuant to these Terms and/or in connection with any Service. Subscriber shall not disclose or give to any third party any such information without the prior written consent of Service Provider.

## **21. Entire Agreement**

- 21.1. These Terms comprise the complete registration and activation process for each Service submitted by Subscriber to Service Provider, represent the entire understanding, and constitute the whole agreement, in relation to its subject matter and supersedes any previous agreement between the Parties with respect thereto, and, without prejudice to the generality of the foregoing, excludes any warranty, condition or other undertaking implied at law or by custom.
- 21.2. In the event of a conflict between terms and conditions set forth in the main body of these Terms and the terms in a service specific schedule, the terms in the service specific schedule shall govern.

## **22. Severability**

If any provision herein contained should be invalid, illegal or unenforceable under any applicable law, such provision shall be fully severable and these Terms shall be construed as if such illegal or invalid provision had never comprised a part of these Terms and the legality and enforceability of the remaining provisions of these Terms shall not be affected or impaired in any way.

## **23. Assignment**

Subscriber shall not assign any of his/her/its rights or obligations under these Terms to any other person whatsoever. Service Provider may assign and/or novate these Terms to any third party and consent for the abovementioned is hereby deemed given by Subscriber.

## **24. Indulgence and Waiver**

- 24.1. No delay or indulgence by Service Provider in enforcing any term or condition of these Terms or granting of time by Service Provider to Subscriber shall prejudice the rights or powers of Service Provider under these Terms or at law.
- 24.2. Failure by Service Provider to exercise any part or all of its rights under these Terms or any partial exercise shall not act as a waiver of such right nor shall any waiver by Service Provider of any breach constitute a continuing waiver in respect of any subsequent or continuing breach.

## **25. Notice**

Service Provider may give notice by way of posting a notice on its website or by e-mail or other communication coordinates. All notices, requests or other communications required or permitted to be given or made hereunder by Subscriber to Service Provider shall be in writing and delivered either by hand, or sent by prepaid registered post addressed to Service Provider's registered office address (or such other address as Service Provider may revise from time to time). Such notices, requests or other communications shall be deemed to have been given by facsimile or e-mail immediately after transmission thereof or if sent by post (including posting on the website by Service Provider), forty-eight (48) hours after posting.

## **26. Force Majeure**

- 26.1. Service Provider shall not be liable for any breach of these Terms arising from cause beyond its control, including but not limited to:
  - 26.1.1. war, whether declared or not, civil war, civil violence, riots and revolution, acts of piracy, acts of sabotage;
  - 26.1.2. natural disasters and Acts of God, such as violent storms, cyclones, earthquakes, tsunamis, tidal waves, floods, destruction by lightning;
  - 26.1.3. explosions, fires, destruction of machines, of factories and of any kind of installations;
  - 26.1.4. boycotts, strikes and lock-outs of all kinds, go-slows, occupations of factories and premises, work stoppages, embargo, labor shortages or disputes, failure of the Internet; and
  - 26.1.5. acts of authority, whether lawful or unlawful.
- 26.2. Service Provider may terminate any Service by giving written notice to Subscriber, in the event that the Force Majeure event which has occurred prevents Service Provider from performing and/or continuing its obligations for more than a period of fourteen (14) days.

## **27. Governing Law and Forum**

These Terms shall be governed and construed in accordance with the laws of Malaysia and the Parties hereby irrevocably submit to the non-exclusive jurisdiction of the Malaysia courts. These terms and condition shall also be subjected to the directives, determinations and regulations as set by Malaysian Communications and Multimedia Commission from time to time (“MCMC Directives”). In the event of conflict between the terms and conditions and MCMC directives, the MCMC directives shall prevail and supersede in respect of the conflict only.

## **28. Taxes**

Where any Goods and Services Tax (“GST”), Value Added Tax (“VAT”), Government tax or equivalents thereof, is applicable to Service Provider as the supplier under these Terms, Service Provider is entitled to charge Subscriber the GST, VAT and/or equivalents thereof payable to the government.

## **29. Subscriber’s Warranties and Acknowledgement**

29.1. Subscriber hereby warrants that:

29.1.1. he/she/it has the legal capacity to enter into these Terms and is not a minor; and

29.1.2. if Subscriber is a body corporate, it has the required corporate authority to enter, execute and be bound by these Terms.

29.2. Subscriber acknowledges that:

29.2.1. he/she/it has read and fully understood all the terms and conditions herein upon accepting these Terms and agrees to be bound by the same upon Service Provider accepting the application; and

29.3. Subscriber further acknowledges and agrees that:

29.3.1. It is Service Provider’s policy to use Subscriber’s data and personal information acquired through the registration process or through Subscriber’s use of Service Provider’s products and services for its business purposes.

29.3.2. Service Provider shall inform and obtain the consent of the Subscriber prior to using and/or sharing Subscriber’s personal information for purposes as allowed under the Personal Data Protection Act 2009 only, such uses which may include advertisements and content on the website(s) and Service Provider’s partner sites, providing information to Subscriber of other products and services available from Service Provider, its licensors and its affiliates, processing and fulfilling Subscriber request for products and services, responding to Subscriber enquiries, conducting research for improvement of the Service and relevant technology and products, and statistical analysis and the general operation and maintenance of the Service and its related website(s).

29.3.3. Service Provider will disclose Subscriber’s personal information if required to do so by law or in good faith, if such action is necessary to:

29.3.3.1. comply with any legal authority, law enforcement agency, court orders or legal process; and/or

29.3.3.2. protect and defend the rights or property of Service Provider, its licensors and its users.

## **30. Schedules Integral to this Agreement**

For the avoidance of doubt, the Parties agree and understand that the contents of the schedules to this Agreement shall be deemed to form and be construed as an integral part of this Agreement and shall be binding upon them.

## **31. Promotions**

31.1. Where the Subscriber’s subscription is made pursuant to promotions as listed in the Appendix 2 hereto, the Subscriber agrees that upon Service Provider’s acceptance of the Subscriber’s

application to subscribe to the Service pursuant to a promotion, the Subscriber shall be subject to such additional terms and conditions as may be attached as conditions to the said promotion. Such additional terms and conditions shall be read as supplementary to the terms and conditions in this Agreement. Service Provider expressly reserves the right to withdraw any promotions subscribed to by the Subscriber at any time without assigning any reasons for such withdrawal.

- 31.2. In the event that the promotion involves a licensed financial institution as defined in the Banking and Financial Institutions Act 1989 (hereinafter referred to as the “Financier”), the Subscriber shall in addition to Clause 31.1 above comply with all requirements imposed by the Financier and further acknowledges that Service Provider has reserved the right to take any action as requested by the Financier to protect the Financier’s interests or as deemed fit for Service Provider’s own interests and credit control purposes and management of the Subscriber’s account(s).

### **32. Data**

The Subscriber shall, upon executing this Agreement, consent and permit Service Provider to use/disclose the Subscriber’s personal data for purposes including but not limited to data matching, transborder transfer of data, Call Line Identification Presentation (CLIP), credit checking and/or for any purpose deemed to be in the interest of Service Provider and for the compliance of any laws and regulations.

### **33. P1 Voice Service**

For P1 Voice service there are additional terms and conditions, for which please visit [www.p1.com.my](http://www.p1.com.my)

## SCHEDULE 1: SERVICE SPECIFIC SCHEDULE

### EXHIBIT: WIMAX POST-PAID SERVICES BY SERVICE PROVIDER

#### Terms and conditions specific to this service:

##### 1. Service Description.

Post-Paid WiMAX Internet access and any other services that the Service Provider may decide to provide, at its sole and absolute discretion, to Subscriber. The service is offered on a best effort basis and on a shared basis; however Packet One shall endeavor to provide best possible services to subscribers.

##### 2. License.

Service Provider grants a non-exclusive, non-transferable license to Subscriber to use this service (including the license to use all necessary software in connection with this service), such license shall be automatically revoked once the term of the service expires or once the service is terminated for whatever reason.

## SCHEDULE 2: FAIR USAGE POLICY

### 1. Introduction

- 1.1. This Fair Usage Policy ("Policy") sets out an acceptable level of conduct between the service provider and its subscribers using the Service.
- 1.2. A very small number of customers use Peer to Peer or file sharing software, which constantly sends and receives video and other very large files, throughout the day. This type of activity uses a lot of bandwidth and can significantly reduce the speed at which other customers can access the Internet during peak hours. Approximately 1% of customers use more than 30% of the available bandwidth during peak hours. We don't believe this is fair to the vast majority of our customers.
- 1.3. This Policy automatically identifies the very small number of extremely heavy users and manages their bandwidth only, to protect the service for all our other customers.
- 1.4. The Service Provider may, from time to time, change this Policy without further notice to its Subscribers. Please visit the [www.p1.com.my](http://www.p1.com.my) web page periodically to determine any changes to this Policy.
- 1.5. This Policy supplements the P1 4G services which include voice and broadband services in the General Terms and Conditions.

### 2. Fair Usage

- 2.1. Service Provider is committed to ensuring our customers receive the best broadband performance for a competitive price. To achieve this goal we provide a contended broadband service. This means our Internet bandwidth is shared with all our subscribers at any one point in time.
- 2.2. The Service provider reserves the right to release subscriber information pursuant to any copyright (and/or intellectual property right) infringement if it is required to do so by any law, regulatory body or court of law.
- 2.3. Each subscriber's total usage per billing cycle month shall not exceed the usage of data volume transmitted (total upload and download usage) as per the service package subscribed.
- 2.4. This Policy shall be viewed in detail on P1 website at [www.p1.com.my](http://www.p1.com.my).

### 3. Enforcement on Breach of Policy

- 3.1. In respect of the subscribers who are in violation of this Policy, the Service Provider may, reduce the upload and download speed as per Clause 2.4 hereto and/or suspend or terminate the service (with or without notice as the service provider considers appropriate).
- 3.2. However, in the subsequent billing cycle month, the Subscriber shall receive its original subscribed speed subject to Clause 3.1 above.

- 3.3. To report any illegal or unacceptable use of Post paid WiMAX service, please send an email to [careline@packet-1.com](mailto:careline@packet-1.com) or call P1 Careline at 1300 03 1300.

#### **COOLING OFF PERIOD POLICY**

1. This Cooling Off Period shall apply to the new subscribers only which shall mean the following: -
  - a. A Subscriber whom has never subscribe to the Service Provider's WiMAX services before, or
  - b. A Subscriber whom has subscribed to P1 4G services before but has not executed termination under the Cooling Off Period policy, six (6) months ago.
2. The Subscriber can terminate this Agreement within the Cooling Off Period provided by the Service Provider which is within seven (7) days from the Service Activation date and obligation to the contract period.
3. To initiate the Cooling Off Period Policy, in the event of termination by the Subscriber, the Subscriber shall call / walk in to Service Provider's P1 Paddock or P1 Authorised Service Centre as advised by P1.
4. Subscriber is obligated to return the Device and all other items in the Device package to the Service Provider in good/undamaged and working condition to the standard acceptable by the Service Provider and its authorized agents. Upon receiving the Device, the Service Provider shall refund all fees to the Subscriber via a cheque by post mail in the name of the Subscriber within forty five (45) days.
5. Subscriber shall ensure the Device and all other items in the Device package are in good and working condition or shall repair the same at its own cost. In the event the Subscriber fails, refuse, neglect to repair the Device to good and working condition which is acceptable by the Service Provider and its authorized agents or the Device and all other items in the Device package are lost/missing due to the negligence/fault of the Subscriber, the Subscriber must pay the cost of the lost / missing device(s) imposed by the Service Provider within two (2) days from the date of termination by the Subscriber. Otherwise, the Service Provider reserves the right to deduct the said sum from the fees paid by the Subscriber and shall return the balance remaining sum to the Subscriber.
6. In the event the sum owed by the Subscriber pursuant to Clause 5 in the Cooling Off Period Policy as above, is more than the fees paid to the Service Provider, the Subscriber shall reimburse the balance sum to the Service Provider failing which the Service Provider shall take all necessary legal action to recover the same from the Subscriber and the cost shall be borne by the Subscriber.
7. To execute the Cooling Off Period Policy, the Subscriber MUST return all the following items to the Service Provider in good/undamaged and in working condition, which includes (if applicable):
  - a. P1 4G Device
  - b. Device Power Adapter
  - c. Ethernet Cable
  - d. WiFi Adaptor
  - e. Quick Installation Guide
  - f. Device Package (box)

In the event any or all of the Devices mentioned above is not returned, the Subscriber shall pay the cost of the said Device(s) to the Service Provider on the termination date.

8. Subscriber is entitled to utilize this Cooling Off Period for a cumulative total of only three (3) successive times in any two (2) successive months to terminate this Agreement, following which no purported termination by Subscriber under Cooling Off Period shall be entertained by Service Provide for next consecutive three (3) months.