

Kyknou Net Fiber product-specific conditions

GENERAL

I/we accept and understand that ...

1. the service is a best-effort service and therefore Kyknou Net does not guarantee any throughput of data and no service level agreement is associated with the service;
2. the provision of the service is subject to network availability, distance and quality of infrastructure and line sync speed limitations;
3. in instances where Kyknou Net has to dispatch a technician to assist with the installation and configuration of the service, the customer's (ISP) account will be debited with the then current installation charge;
4. the service will automatically be activated for billing purposes two days after confirmation from the customer that the service has been physically activated or when the service is used for the first time, whichever occurs first;
5. the service will be billed by using a forward billing methodology and charges will be prorated from the 29th day of each month; or as agreed
6. Kyknou Net reserves the right to change the billing methodology;
- "7. should Kyknou Net suspend the service of the end user for whatever reason, Kyknou Net will also suspend the Fiber service until such time that the service is restored; and
8. Kyknou Net reserves the right to amend the product-specific conditions from time to time.

VOIP AND OTHER SERVICES

I/we ("the customer") accept and understand that ...

1. the services provided by Kyknou Net cc 2002/063288 ("Kyknou Net") are subject to Kyknou Net's standard conditions for public telecommunication services (PTS) ("the standard conditions"), as amended from time to time

2. Kyknou Net reserves the right to amend the standard conditions from time to time;

3. the standard conditions are available for perusal at any Kyknou Net Customer Service Branch and can be inspected free of charge during normal office hours;

4. this order form contains only an abridged version of certain of the standard conditions. In the event of any conflict between this abridged version and the standard conditions, the provisions of the standard conditions will prevail;

5. the abridged standard conditions set out in this document are not all the important standard conditions of contract and it is my/our responsibility to study the standard conditions;

NOTE: If you have not studied the standard conditions and wish to do so before being bound thereto, you should not sign and/or submit this order form until you have done so.

6. by signing and submitting this order form to Kyknou Net, I/we will be bound by the standard conditions, irrespective of whether I/we have read them or not;

7. if I/we am/are not the owner(s) of the premises where the service is required, I/we must obtain permission from the owner of such premises that may be required and I/we shall indemnify Kyknou Net against all damages or claims resulting from the failure to obtain such permission relating to the installation and/or removal of the service;

8. a contract in respect of the services concerned will come into being upon the date on which this order form, submitted by me/us, is accepted and approved by Kyknou Net;

9. Kyknou Net reserves the right to refuse to provide a service if the applicant fails to meet the conditions of Kyknou Net's credit referencing procedure;

10. Kyknou Net reserves the right to make general credit reference enquiries about the applicant who has applied for a service and check the correctness of the information supplied by the applicant when applying for a service. Kyknou Net shall also be entitled to furnish any information relating to my/our account and compliance with the standard conditions to any credit bureau;

11. Kyknou Net shall be entitled to require from me/us the payment of a deposit, to be determined by Kyknou Net as a precondition for providing the service. The deposit is to serve as security for payment of any amounts due to Kyknou Net by me/us;

12. should I/we cancel or modify an order so that abortive costs are incurred by Kyknou Net, I/we will be liable for such costs, which shall be payable on demand;

13. Kyknou Net shall install the service, as requested by me/us against payment of the relevant installation charge and deposit if applicable;

14. I/we will, at my/our own cost, ensure the provision of a suitable electrical power supply, should this be required for the proper functioning of the service;

15. I/we shall allow Kyknou Net free access to my/our premises during reasonable hours to install, inspect, maintain or remove telecommunication facilities or equipment;

16. where the service is a telephone or a telex service, Kyknou Net shall provide, at a charge, an entry in the directory or the area in which the service is provided, which will comprise my/our name, address and service number in an abbreviated form;

17. no entry will be made in the directory if I/we should request Kyknou Net in writing to be excluded from the directory. In such a case my/our directory information will also be excluded from any directory information service provided by Kyknou Net;

18. I/We agree not to capacity on any telecommunication facility obtained from Kyknou Net or cede or assign my/our rights to use the telecommunication facility, or sublet or otherwise part

control it, without Kyknou Net's written consent;

19. Kyknou Net shall levy charges for the provision of services, including but not limited to installation charges, reconnection charges, service charges, co-user charges, rental charges and call charges, in accordance with rates as determined by Kyknou Net from time to time, subject to Kyknou Net's PSTS licence conditions. I/we will be liable for all charges levied in respect of all services provided by Kyknou Net;

20. Kyknou Net shall maintain the service, against payment of rental/maintenance charges that are payable in advance for the first and any subsequent rental period, as from the date on which the service is established;

21. I/We shall only be entitled to a credit on the rental amount payable for the service, pro rata to the duration of the interruption, if:

(a) the Service has been unavailable for a continuous period of 24 hours, or in the case of an international Private Leased Circuit for a continuous period of 3 hours; or

(b) irrespective of the duration of the unavailability, the pro rata rental amount corresponding to the period of unavailability is at least equal to an amount determined by Kyknou Net from time to time;

22. call charges shall be billed to me/us at the end of each billing period and are payable on or before the due date indicated on the account;

23. Kyknou Net shall periodically provide me/us, usually on a monthly basis, with an account, which constitutes a statement of the services rendered and an invoice for the amounts payable by me/us;

24. Kyknou Net may, however, at its own discretion, issue to me/us an account outside the normal billing cycle, and/or demand immediate payment of any amount due by me/us;

25. the account rendered by Kyknou Net to me/us is prima facie proof of the amount due to Kyknou Net by me/us. I/we am/are, however, entitled to query or dispute any element of the account in accordance with the provisions of paragraph 10 of the standard conditions, that deal with customer assistance and complaints and arbitration;

26. interest is payable on late payments from date of issue of the invoice up to and including the date of payment thereof, compounded monthly, at a rate as determined by Kyknou Net cc

2002/063288 from time to time;

27. a service will be deemed to be in good working order until Kyknou Net is advised otherwise;

28. if Kyknou Net determines that a fault reported by me/us was caused by an item of customer premises equipment, which is not covered by a maintenance agreement with Kyknou Net, I/we will be liable for the relevant call-out charges, as determined by Kyknou Net from time to time;

29. the service may be:

a. terminated after the minimum rental period applicable to the service, by either party giving one month's prior written notice to the other; and

b. suspended and/or terminated by Kyknou Net on the terms and under the conditions set out in the standard conditions;

30. where I/we request the termination of a service, the rental, if any, paid for a period after the official date of termination, will be credited to me/us. If I/we request that a service be terminated prior to the expiry of the minimum rental period, or if the service is terminated as a result of non-payment of the account, I/we will remain liable for the rental for the non-expired part of the rental period;

31. for purposes of clarity, where I/we should change location, for example as a result of moving from one residence ("the old residence") to another, I/we remain liable for all charges in respect of the service at the old residence until such time as I/we have formally terminated with Kyknou Net the service at the old residence;

32. after termination of the service for whatever reason:

a. Kyknou Net may delete any entries in the directory pertaining to the service;

b. Kyknou Net may enter my/our premises to remove Kyknou Net's telecommunication facilities; and

c. I/we will pay on demand all charges and/or costs outstanding at the time of termination, or accrued thereafter as a result of the termination;

33. where the service to me/us has been suspended as a result of non-payment, Kyknou Net shall be entitled to demand from me/us the payment of a deposit or an increased deposit, as determined by Kyknou Net, as a precondition for restoring the service. Such a deposit shall be in addition to the payment by me/us of any outstanding amounts and reconnection charges due to Kyknou Net;

34. without prejudice to any of its rights, Kyknou Net shall be entitled to offset against a deposit, any amount due to Kyknou Net by me/us including without limitation, amounts due for loss of or damage to Kyknou Net's equipment, at any time while the service is provided, or at the termination of the service.

35. I/we will be liable for all costs, including legal costs on an attorney and own-client scale, as well as tracing costs and collection commission incurred by Kyknou Net in or about the enforcement of any of my/our obligations in terms of these standard conditions;

36. Kyknou Net undertakes to take all reasonable precautions in connection with the provision, installation and maintenance of the service, and shall only be liable for actual damages or injury, caused to any work or property that may arise from the provision, installation or maintenance of the service;

37. Kyknou Net shall not incur any liability for any loss or damages arising out of the provision, installation or maintenance of the service, whether direct or indirect, consequential or contingent and in particular shall not be liable for any financial loss or loss of profits, income, contracts, business or goodwill;

38 Kyknou Net shall not be liable for any costs arising from the use of the service or an interruption to the service, for any reason whatsoever, nor shall Kyknou Net be liable for any costs or damages arising from the termination of the service;

39. I/we indemnify and hold Kyknou Net harmless against any losses, damages, expenses and/or costs that I/we may incur, directly or indirectly, as a result of claims and/or actions by such third parties (including but not limited to dependants, customers, employees, agents) and for any loss sustained by third parties arising from the installation and provision of the service;

40. except as specifically provided in the standard conditions, Kyknou Net shall not be liable to me/us for any breach of these standard conditions or failure to perform any obligation as a result of any force majeure, including but not limited to Government controls, restrictions or prohibitions or any technical problems relating to Kyknou Net's PSTS, acts of God, other Government act or omission, whether local or national, any act or default of any supplier, agent or subcontractor,

industrial disputes, strikes or work stoppages of any kind or any other similar or dissimilar cause,

41. the failure of Kyknou Net to enforce at any time any of the standard conditions or any part thereof, or any right with regard thereto, shall in no way be construed to be a waiver of the provisions of such a condition or to be an estoppel or novation or in any way affect the validity of such novation or in any way affect the validity of such condition. Any indulgence towards me/us or the relaxing of the provisions of a condition shall not prejudice the right to Kyknou Net to insist on my/our strict compliance to my/our undertakings obligations in terms of these standard

42. the risk and loss of or damage to any equipment rented from Kyknou Net by me/us in connection with the service shall pass to me/us upon its delivery or installation and shall at all times vest and remain vested exclusively in me/us. Notwithstanding the passing of the risk, the ownership of the equipment rented from Kyknou Net remains vested in Kyknou Net;

43. any intellectual property rights vested in Kyknou Net, whether by statute or common law, shall remain vested in Kyknou Net and I/we agree not to do anything or allow anything to be done that may infringe Kyknou Net's rights in this regard;

44. I/we hereby indemnify Kyknou Net against any claims, actions and proceedings that may arise in connection with any intellectual property rights vested in Kyknou Net;

45. I/we choose as my/our domicilium citandi et executandi the address as given in the application form, or the installation address, or another address of which I/we may notify Kyknou Net in writing, provided that such address is a physical street address;

46. apart from the provision of paragraph 10.3 of the standard conditions, Kyknou Net and I/we consent to the jurisdiction of the Magistrate's Court in respect of the settlement of any dispute and/or claim arising between us, regardless of whether the amount in dispute or the value of the matter in dispute might otherwise exceed the jurisdiction of such Court; and

47. I/we shall not assign or cede this agreement or any rights hereunder.