

TERMS AND CONDITIONS FOR SUBSCRIPTION FAX2EMAIL

1. The following terms shall have the meanings assigned to them hereunder, namely:
 - 1.1 **AGREED PERIOD**
means the period of either 6 months or 12 months for which the customer has requested the service in terms of the application.
 - 1.2 **FONEWORX**
means FoneWorx (Pty) Ltd, registration no 1997/014426/07.
 - 1.3 **EFFECTIVE DATE**
means, notwithstanding the date of signature of this agreement, the date on which the customer registers for the relevant service, irrespective of whether or not the customer has activated and/or commenced using the service.
 - 1.4 **FAX2EMAIL SERVICE**
means the FoneWorx Subscription FAX2EMAIL service.
 - 1.5 **VAT**
means Value-Added Tax as defined in the Value-Added Tax Act 89 of 1991.
 - 1.6 **PSTN**
means the Public Switched Telecommunications Network which provides services in terms of the Telecommunications Act 103 of 1996 as amended.
 - 1.7 **SUBSCRIPTION NUMBER**
means a standard Telkom number commencing with an area code prefix for the area in which the customer intends using the service.
 - 1.8 **SUBSCRIPTION FAX2EMAIL SERVICE**
means a FAX2EMAIL service where the recipient pays for the Fax2Email number and where the sender pays standard Telkom rates when transmitting faxes.
 - 1.9 **COST SCHEDULE**
means the schedule of usage costs as reflected on the website and as amended from time to time.
2. **COMMENCEMENT AND DURATION OF SERVICE AGREEMENT**
 - 2.1 The agreement shall commence upon the effective date on which the first service is provided to the customer and shall endure for the agreed period.
3. **SERVICE COSTS AND PAYMENT**
 - 3.1 All services provided by FoneWorx shall be charged as of the effective date.
 - 3.2 Payment for the FAX2Email service will be on a prepaid basis
 - 3.3 The amount payable by the customer will be the amount of R150.00, if the customer has requested the service for six months or R250.00 if the customer has requested the service for 12 months.
 - 3.4 The customer will be responsible for the following in addition the charges relating to the service:
 - 3.4.1 VAT and any other taxes or duties imposed by any regulatory authority which the customer may become obliged to pay by virtue of using the service.
 - 3.4.2 Any PSTN or mobile service fees for which the customer agrees to make payment directly to Telkom or any other relevant mobile or fixed line network on the terms and conditions agreed between Telkom (or other network provider) and the customer.
4. **ALLOCATION OF TELEPHONE NUMBER**
 - 4.1 FoneWorx will allocate a geographical number to the customer for FAX2Email and shall ensure (subject to network provider maintenance and operational requirements) that the telephone numbers and service are operational. FoneWorx will map the allocated number to the email address provided by the customer.
5. **SURGES**
 - 5.1 The customer accepts that there is a likelihood of a surge in fax transmissions during times of the day. To the extent that surges occur an engaged tone will result and in such circumstances FoneWorx cannot be held responsible where a sender of a fax cannot successfully dial into the customer's fax2email number. The sender of the fax will have to redial the fax number later.
6. **CUSTOMER'S OBLIGATIONS**
 - 6.1 The customer shall comply strictly with the Codes of Conduct which are provided by the various network providers. The Codes of Conduct can be obtained from FoneWorx on request. The customer may not at any time use the service provided by FoneWorx in contravention of any South African law.

- 6.2 The customer shall not commit or attempt to commit any act or omission which directly or indirectly in any way damages the FoneWorx technical infrastructure or impairs or precludes FoneWorx from being able to provide the service in a reasonable and professional manner.
- 6.3 The customer is prohibited from selling or otherwise dealing in the service of FoneWorx in any manner whatsoever without obtaining the prior written consent of FoneWorx.
- 6.4 The customer may not, under any circumstances, resale from this service agreement or withhold or defer payment or be entitled to a reduction in any of the charges pursuant to this agreement if FoneWorx interrupts the service to the customer for any reason whatsoever.
7. **WARRANTY**
- 7.1 FoneWorx does not make any representations nor does it warrant or guarantee in any way whatsoever the services that FoneWorx will offer to the customer and all warranties which are implied or residual at common law are hereby expressly excluded.
- 7.2 FoneWorx does not warrant or guarantee that the content, data or information transmitted by any of the customers using the service or be preserved or sustained in its entirety or be delivered to any or all of the intended recipients or will be suitable for any purpose.
- 7.3 FoneWorx does not warrant or guarantee that the content, information or data transmitted using the service will be free of inaccuracies or defects or bugs or viruses or any kind or will be secured against intrusion by unauthorized third parties.
8. **INTELLECTUAL PROPERTY AND PROTECTION OF INFORMATION**
All intellectual property relating to or used in connection with the FAX2Email service provided by FoneWorx in terms of this agreement shall belong to FoneWorx. The customer undertakes that it shall at no time expose any third party to the intellectual property of FoneWorx nor copy, modify, tamper, decompile or reverse engineer any of the intellectual property owned by FoneWorx.
9. **INDEMNITY**
The customer hereby unconditionally and irrevocably indemnifies FoneWorx, its employees, directors or any of its agents, distributors, independent contractors or dealers, against any claims of whatsoever nature which may be brought against FoneWorx, its employees, directors, agents, distributors or independent contractors by any person of whatsoever nature arising out of connected with the provision of, or the failure to provide, the service as reflected in this agreement.
10. **GOVERNING LAW AND JURISDICTION**
This agreement shall be governed by and construed in accordance with the laws of the Republic of South Africa and all disputes, actions and other matters relating thereto shall be determined in accordance with South African law by a South African Court having jurisdiction.
11. **NON-VARIATION**
No variation, amendment or alteration to any of the terms and conditions of this agreement shall be of any force or effect unless they have been reduced to writing and have been signed by the parties or by their duly authorized representatives. The parties agree that no other terms or conditions, whether oral or written, and whether express or implied, apply to this agreement.
12. **WAIVER**
No extension of time or waiver or relaxation of any of the provisions or terms of this agreement will be binding for any purpose unless expressed in writing and signed by the parties giving the same, and any such waiver will be effective only in a specific instance and for the purpose given. No failure or delay on the part of either party in exercising any rights, power or privilege will operate as a waiver, nor will any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof with the exercise of any other right, power or privilege.
13. **FORCE MAJEURE**
FoneWorx shall not be liable for non-performance in terms of this agreement to the extent that non-performance is caused by any event or condition beyond the control of FoneWorx. FoneWorx will not be able to supply the service in terms of this agreement in the event that there is any fault with the PSTN and/or any other of the mobile networks used by FoneWorx in the delivery of the service and/or any other Internet service provider used in the provision of this service. In particular, FoneWorx will be unable to deliver the service in the event that there is any act of sabotage, act of war, interruption of transport, lock-outs, floods, storm or fire.
14. **DOMICILIUM CITANDI ET EXECUTANDI**
For all purposes, including but not by way of limited, the giving of any notice, the making of any communication and the serving of any process, Customer chooses its domicilium citandi et executandi ("domicilium") at the physical address appearing on the application form to which these Standard Terms and Conditions are attached. FoneWorx chooses its domicilium citandi et executandi ("domicilium") at 1st Floor, Cnr Bram Fischer Drive & Will Scarlet Road, Ferndale, Randburg, 2194, South Africa. Either party shall be entitled, from time to time, to vary its domicilium and shall be obliged to give notice to the other within 10 (ten) days of the said change. Any notice which either party may give to the other shall be posted by prepaid registered post or hand delivered to the other party's domicilium and shall be presumed, unless the contrary is proved by the party to whom it is addressed, to have been received by that party on the 10th (tenth) day after the date of posting or on the day of delivery as the case may be.
15. **RENEWAL**

The client will receive a notification prior to the end of the agreed period. The client will have the option of extending the use of the service on payment of the costs for the option chosen. If the client extends the use of the service the same terms and conditions will apply.

16. QUALITY AND RESOLUTION

16.1 The customer acknowledges that where a document is faxed to or from FoneWorx, the quality and resolution of the document cannot be guaranteed by FoneWorx and FoneWorx shall not be liable for any degradation or defects to the faxed document.

16.2 FoneWorx shall not be liable for:

16.2.1 Any quality deterioration in fax transmission;

16.2.2 Any delays in transmission;

16.2.3 Variant transmission times, it being acknowledged that various factors such as: on-line noise, classes of fax machines, storms etc may impact on transmission times and quality;

16.2.4 The transmission being delivered to any or all the intended recipients;

16.2.5 Ensuring that the service is free from any defects, bugs or viruses or inaccuracies of any kind;

16.2.6 Ensuring that the service is secure against any intrusion by unauthorized third parties.