

TERMS OF SERVICE

This agreement ("Agreement") is between Unwired Fiji, its subsidiaries, affiliates and assigns (collectively "we," "us" or "UWF") and the user ("you," "user" or "End User") of Unwired Fiji's **unwiredVoice:)** Service ("Service"). This Agreement governs both the Service and any related devices, such as an IP phone, Multimedia Terminal Adapter, Analog Telephone Adapter or any other IP connection device, ("Device" or "Equipment") used in conjunction with the Service. By activating the Service, you acknowledge that you have read and understood, and you agree, to the terms and conditions of this Agreement, and you represent that you are of legal age to enter this Agreement and become bound by its terms.

1. TERMS AND CONDITIONS.

1.1 Term. The Service is offered on a monthly basis for a term which begins on the date that Unwired Fiji activates your Service and ends on the day before the same date in the following month. Subsequent terms of this Agreement automatically renew on a monthly basis without further action by you unless you give Unwired Fiji written notice of non-renewal prior to the end of the monthly term in which the notice is given. If you are using an **unwiredVoice:)** plan, you are pre-purchasing the Service for full monthly terms, meaning that if you terminate Service prior to the end of a monthly term, you will not be entitled to any pro rata refund of any remaining portion of your current monthly term. Expiration of the term or termination of the Service will not excuse the End User from paying any unpaid, accrued charges that are due in relation to the Agreement.

1.2 Use of the Services. The Service and Device are to be used for your personal residential use or limited small business use. You acknowledge that the Service will not be used for any excessive business use including, but not limited to, auto-dialing, continuous or extensive call forwarding, continuous connectivity, fax broadcasting, fax blasting, telemarketing (including without limitation charitable or political solicitation or polling), automatic dialing, call centers, public calling centers or internet cafes or any other activity that would be inconsistent with normal residential or small business usage patterns. If you use in excess of 5,000 minutes per month shall be presumed to be not consistent with the uses permitted herein. You may not resell or transfer the Service or the Device to any other person for any purpose, or make any charge for the use of the Service. Unwired Fiji reserves the right to immediately terminate or modify the Service, if Unwired Fiji determines, in its sole discretion, that the Service is being used contrary to the provisions of this Agreement.

1.3 Lawful Use of Service and Device. You agree to use the Service and Device only for lawful purposes. This means that you agree not to use them for transmitting or receiving any communication or material of any kind when in Unwired Fiji's sole judgment, the transmission, receipt or possession of such communication or material may constitute a criminal offense, give rise to a civil liability, or otherwise violate any applicable local, state, national or international law. Unwired Fiji reserves the right to terminate your service immediately if Unwired Fiji, in its sole discretion, believes that you have violated this provision. You are liable for any and all use of the Service and/or Device by yourself and by any person making use of the Service or Device provided to you and you agree to indemnify and hold harmless Unwired Fiji against any and all liability for any such use. If Unwired Fiji, in its sole discretion believes that you may have violated this provision, Unwired Fiji may forward the objectionable material, as well as your communications with Unwired Fiji and your personally identifiable information to the appropriate authorities for investigation and prosecution and you hereby consent to such forwarding.

1.4 Use of the Service and Device Outside the Republic of Fiji Islands. You agree to assume all responsibility for use of the Service and Device outside of the Republic of Fiji Islands. If the Service and Device are used in a country other than the Republic of Fiji Islands, you do so at your own sole risk, including the risk that such activity violates local laws in the country where you do so. You are liable for any and all such use of the Service and/or Device by yourself or any person making use of the Service or Device provided to you and agree to indemnify and hold harmless Unwired Fiji against any and all liability for any such use. Unwired Fiji does not represent, warrant or guarantee that the Service or Device will work outside of the Republic of Fiji Islands.

1.5 Tampering with the Device or Service. You agree not to change the electronic serial number or equipment identifier of the Device, or to perform a factory reset of the Device. Unwired Fiji reserves the right to terminate your Service without refund should you tamper with the Device. You agree not to make or attempt to make any use of the Service that is inconsistent with its intended purpose.

1.6 Theft of Service. You agree to notify Unwired Fiji immediately if you become aware at any time that your Service is being stolen or fraudulently used. When you call or write, you must provide your account number and a detailed description of the circumstances and you will remain responsible for all charges for the Services until such time as you provide Unwired Fiji with notice of the theft or fraudulent use of the Service.

1.7 Reassignment of Number upon Service Termination. Upon termination of the Service, Unwired Fiji may, at its sole discretion, reassign a telephone number or Direct Inward Dialing ("DID") (collectively "Number") provided to you by Unwired Fiji. You shall not obtain any rights, title or interest in the Number and the Number is not portable to other service providers. The Number is not to be used with any other device other than the Device provided by Unwired Fiji and Unwired Fiji reserves the right to change, cancel or reassign the Number at Unwired Fiji's discretion.

1.8 Service Distinctions. You acknowledge and understand that the Service is not a telecommunications service. Important distinctions (some, but not necessarily all, of which are described in this Agreement) exist between a telecommunications service and the enhanced Service offering provided by Unwired Fiji. The Service is subject to different regulatory treatment than telephone service. This treatment may limit or otherwise affect your rights of redress before any governmental telecommunications regulatory agencies.

1.9 Ownership and Risk of Loss. You are purchasing the Device and therefore, are the owner of the Device and bear all risk of loss of, theft of, casualty to or damage to the Device, from the time it is received by you.

1.10 Intellectual Property. The Service and Device and any firmware or software used to provide the Service or provided to you in conjunction with providing the Service, or embedded in the Device, and all Services, information, documents and materials on

Unwired Fiji's website(s) are protected by trademark, copyright or other intellectual property laws and international treaty provisions. All websites, corporate names, service marks, trademarks, trade names, logos and domain names (collectively "marks") of Unwired Fiji are and shall remain the exclusive property of Unwired Fiji and nothing in this Agreement shall grant you the right or license to use any such marks. You acknowledge that you are not given any license to use the firmware or software used to provide the Service or provided to you in conjunction with providing the Service, or embedded in the Device, other than a nontransferable, revocable license to use such firmware or software in object code form (without making any modification thereto) strictly in accordance with the terms and conditions of this Agreement. You expressly agree that the Device is exclusively for use in connection with the Service and that Unwired Fiji will not provide any passwords, codes or other information or assistance that would enable you to use the Device for any other purpose. If you decide to use the Service through an interface device not provided by Unwired Fiji, which Unwired Fiji reserves the right to prohibit in particular cases or generally, you warrant and represent that you possess all required rights, including software and/or firmware licenses, to use that interface device with the Service and you will indemnify and hold harmless Unwired Fiji against any and all liability arising out of your use of such interface device with the Service. You shall not reverse compile, disassemble or reverse engineer or otherwise attempt to derive the source code from the binary code of the firmware or software.

1.11 Alternate Devices. If you decide to use the Service through a device not provided by Unwired Fiji or an authorized Unwired Fiji reseller, which Unwired Fiji reserves the exclusive right to prohibit, you warrant and represent that you possess all required rights, including software and/or firmware licenses, to use that alternate device with the Service and you will indemnify and hold harmless Unwired Fiji and its vendors against any and all liability arising out of your use of such alternate device with the Service. Unwired Fiji has no obligation to support or service the use of such alternate devices in any way, and in its sole discretion may decline to provide the configuration information required to allow the device to interoperate with the Service.

2. LIMITATIONS OF EMERGENCY (911) SERVICES OR DIRECTORY ASSISTANCE SERVICES.

2.1 Unwired Fiji **unwiredVoice:)** Emergency (911) Services are not available in the Republic of Fiji ISlands. You acknowledge and understand that if the Device is disconnected or relocated outside of the service address you provide to Unwired Fiji, you will not have access to Services. If you decide to relocate the device, you must immediately notify Unwired Fiji so that we can update your service address on file.

2.2 Alternative Emergency Call Arrangements. You acknowledge that Unwired Fiji does not offer primary line or lifeline services. Unwired Fiji strongly recommends that you always maintain an alternative means of accessing traditional emergency services such as a POTS(plain old telephone services) line or a traditional wireless phone service. The **unwiredVoice:)** device allows POTS passthrough to your existing telecom provider dialing ## then the local numbers allows this usage to bypass the **unwiredVoice:)** box. Standard telecom rates will apply to those calls and will appear on your traditional phone billing statement.

3. POWER AND/OR BROADBAND SERVICE OUTAGES.

3.1 Loss of Service Due to Power Failure or Internet Service Outage. You acknowledge and understand that the Service will not function in the event of power failure. You also acknowledge and understand that the Service requires a fully functional broadband connection to the Internet and that, accordingly, in the event of an outage of, or termination of service with or by, your Internet service provider ("ISP") and/or broadband provider, the Service will not function, but that you will continue to be billed for the Service unless and until you or Unwired Fiji terminate the Service in accordance with this Agreement. Should there be an interruption in the power supply or broadband outage, the Service will not function at all until power and service is fully restored. A power failure or disruption may require the End User to reset or reconfigure equipment prior to utilizing the Service. Minimum broadband requirement is 256/128kbps. Optimal service levels for voice and fax are obtained on 256/256kbps plans or higher

4. PAYMENT AND BILLING.

4.1 Billing. Call times for each call are rounded up to the next whole minute and billed in full minute increments. Per call charges are rounded up to the next whole penny. All calls for which we receive answer supervision shall incur a minimum one-minute charge. Unwired Fiji relies on answer supervision to determine whether and when a call has been answered. Answer supervision is a signal sent by the carrier connecting the call to indicate the start of call. Answer supervision is generally received when a call is answered; however, answer supervision may also be generated by voicemail systems, private branch exchanges, and interexchange switching equipment. Where no answer supervision is received, we will commence billing forty (40) seconds following dial time unless the caller has terminated the call. You must notify us in writing of any disputed charges for calls on your account within sixty (60) days of the charges or you will have waived your right to dispute the charges. Funds in your account will expire if your account has been inactive for a period of 120 days.

4.2 Payment. All Services must be prepaid. Unwired Fiji reserves the right to stop accepting credit cards or direct debits from one or more issuers at its sole discretion. Monthly recurring on all accounts is funded from available top-up credit balance unless other methods of payment have been agreed.

4.3 FREE TALK Plans. All services are prepaid. Free Talk plans will provide a preset capacity of free talk time (minutes) which are used to plans within the listed destination group associated with that package. Out-of-plan minutes will be charged on a per minute usage basis against an established top-up call credit balance which you can establish by redeeming cash value onto your account.

4.4 All services must be prepaid using top-up credits after the initial account setup and first month of Free Talk Minutes. Talk minutes will refresh each time the account is cycled/renewed. Cycles are 30 day timeframes. Call charges are per minute increments.

4.5 Activation/Deactivation/Enhanced Service Fees. All accounts which are activated carry one-time activation fee. If you the cancel or terminate the Service there is no penalty. Any outstanding fees must be settled to cancel an account. If an account is closed due to non-funding by client (after 45 days) a NEW account has to be opened to regain service, and the activation fee will apply.

4.6 Billing Disputes. You must notify Unwired Fiji in writing within seven (7) days after receiving your billing statement (viewable if you dispute any Unwired Fiji charges on that statement or such dispute will be deemed waived. Billing disputes should be sent to the

following address: You must notify us in writing of any disputed charges within sixty (60) days of the charges or you will have waived your right to dispute the charges.

Unwired Fiji
Private Mail Bag Suva
Attn: *unwiredVoice:)* Billing

4.7 Payment. Unwired Fiji accepts payments only by direct debit as set forth in Section 4.1. Your initial use of the Service authorizes Unwired Fiji to charge the listed account number on file with Unwired Fiji, including any changed information given Unwired Fiji if the facility expires or is replaced, or if you substitute a different account or banking institution, for Unwired Fiji charges as set forth in Section 4.1. This authorization will remain valid until 30 days after Unwired Fiji receives your written notice terminating Unwired Fiji's authority to direct debit your account, whereupon Unwired Fiji reserves the right to charge you any other outstanding charges and/or terminate the Service. Unwired Fiji may terminate your Service at any time in its sole discretion, if any charge to your direct debit facility on file with Unwired Fiji is declined or reversed, your facility expires and you have not provided Unwired Fiji with a valid replacement facility or in case of any other non-payment of account charges. Termination of Service for declined or expired direct debits, reversed charges or non-payment leaves you fully liable to Unwired Fiji for all charges accrued before termination and for all costs incurred by Unwired Fiji in collecting such amounts, including but not limited to, attorney's fees and costs.

4.8 Termination/Discontinuance of Service. Unwired Fiji reserves the right to suspend or terminate the Service at any time, with or without cause and without notice to you. If Unwired Fiji discontinues providing the Service without a stated reason, you will only be responsible for charges accrued through the date of termination, including a pro-rated portion of the final month's charges. If your Service is terminated for any stated reason, including without limitation violation of this Agreement, or because of any improper use of the Service or Device (such as, but not limited to, your attempts to hack, disrupt, or misuse the Service or your acts or omissions that violate any acceptable use policy of Unwired Fiji or of a third party provider to which Unwired Fiji is subject), you will waive the remainder of any monthly term.

4.9 Taxes. You are responsible for any applicable federal, state, provincial, municipal, local or other governmental sales, use, excise, value-added, universal service fees, personal property, public utility or other taxes, fees or charges now in force or enacted in the future, that arise from or as a result of your subscription or use or payment for the Service or Device. Such amounts are in addition to payment for the Service or Devices and will be billed to your account as set forth in this Agreement. If you are exempt from payment of such taxes, you shall provide Unwired Fiji with an original certificate that satisfies applicable legal requirements attesting to tax-exempt status. Tax exemption will only apply from and after the date Unwired Fiji receives such certificate.

5. WARRANTIES AND LIMITATION OF LIABILITIES.

5.1 Disclaimer of Warranties for Services. All Services provided by Unwired Fiji are provided on an "as is" basis. Unwired Fiji makes no warranty to you or any other person or entity, whether express, implied or statutory, as to the description, quality, title, non-infringement, merchantability, completeness, or fitness for a particular purpose as to the Services provided to you, all such warranties hereby being expressly excluded and disclaimed. Unwired Fiji does not warrant that the Services are error-free or will operate without packet loss or interruption nor does Unwired Fiji warrant the reliability of any connection to or any transmission over the Internet. End user assumes total responsibility and risk for use of the Services.

5.2 Limited Warranty for Device. If End User purchased the Device new from Unwired Fiji said device is warranted against factory defect for 12 months. The power pack supplying DC power to the device is NOT subject to warranty cover under any conditions. Warranty is void if device shows signs of abuse, misuse, tampering, or attempts to disassemble. If End User's Device did not include a limited warranty from Unwired Fiji at the time of purchase, End User agrees that it accepts its Device "as is" and that End User is not entitled to replacement or refund in the event of any defect. OTHER THAN WARRANTIES AS TO THE DEVICE EXPRESSLY SET FORTH IN DOCUMENTATION PROVIDED WITH THE DEVICE, Unwired Fiji MAKES NO WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, AND SPECIFICALLY DISCLAIMS ANY WARRANTY OF MERCHANTABILITY, FITNESS OF THE DEVICE FOR A PARTICULAR PURPOSE, TITLE OR NON-INFRINGEMENT OR ANY WARRANTY ARISING BY USAGE OF TRADE, COURSE OF DEALING OR COURSE OF PERFORMANCE OR ANY WARRANTY THAT THE, DEVICE OR ANY FIRMWARE OR SOFTWARE IS "ERROR FREE" OR WILL MEET END USER'S REQUIREMENTS. THE FOREGOING WILL NOT BE DEEMED TO LIMIT ANY DISCLAIMER OR LIMITATION OF WARRANTY SET FORTH IN THE DOCUMENTATION PROVIDED WITH THE DEVICE.

5.3 Limitation of Liability and Indemnification. YOU ACKNOWLEDGE AND UNDERSTAND THAT Unwired Fiji'S ENTIRE LIABILITY IS LIMITED TO THE PURCHASE PRICE OF THE EQUIPMENT AND SERVICES PROVIDED HEREUNDER. IN NO EVENT SHALL Unwired Fiji, ITS DIRECTORS, OFFICERS, EMPLOYEES, AGENTS OR UNDERLYING SERVICE PROVIDERS BE LIABLE FOR ANY COSTS OR DAMAGES ARISING EITHER DIRECTLY OR INDIRECTLY FROM THE USE OF Unwired Fiji's SERVICES INCLUDING WITHOUT LIMITATION ANY DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, PUNITIVE, RELIANCE OR SPECIAL DAMAGES, OR FOR ANY LOSS OF REVENUE, PROFITS, USE, DATA, GOODWILL OR BUSINESS OPPORTUNITIES OF ANY KIND OR NATURE WHATSOEVER, ARISING IN ANY MANNER FROM ANY CAUSE OF ACTION OR CLAIM RELATING TO THIS AGREEMENT OR TO THE SERVICES PROVIDED BY Unwired Fiji UNLESS IT IS PROVEN THAT THE ACT OR OMISSION PROXIMATELY CAUSING THE CLAIM, DAMAGE, OR LOSS CONSTITUTES GROSS NEGLIGENCE, OR INTENTIONAL MISCONDUCT ON THE PART OF Unwired Fiji OR ITS UNDERLYING SERVICE PROVIDERS. YOU AGREE TO DEFEND, INDEMNIFY, AND HOLD HARMLESS Unwired Fiji, ITS OFFICERS, DIRECTORS, EMPLOYEES, SUBSIDIARIES, AFFILIATES AND AGENTS AND ANY OTHER UNDERLYING SERVICE PROVIDER WHO FURNISHES SERVICES TO YOU IN CONNECTION WITH THIS AGREEMENT OR THE Unwired Fiji *unwiredVoice:)* SERVICE, FROM ANY AND ALL CLAIMS, LOSSES, DAMAGES, FINES, PENALTIES, COSTS AND EXPENSES (INCLUDING, WITHOUT LIMITATION, ATTORNEY FEES) BY, OR ON BEHALF OF, YOU OR ANY THIRD PARTY OR USER OF YOUR Unwired Fiji *unwiredVoice:)* SERVICE.

5.4 Release. By purchasing Unwired Fiji *unwiredVoice:)* Services you acknowledge that you have read, understand and agree to these Terms of Use and that you hereby expressly release Unwired Fiji, its directors, officers, employees, agents and underlying service providers from any and all liability associated with your use of Unwired Fiji *unwiredVoice:)* Services .

5.5 Sole Remedy. Your sole and exclusive remedies are expressly set forth in this Agreement. Some jurisdictions may not permit the exclusion or limitation of implied warranties, and some jurisdictions may not permit the limitations or exclusion of incidental or

consequential damages, so certain of the above exclusions may not apply. In such jurisdictions, the liability of Unwired Fiji, its directors, officers, employees, agents and underlying service providers shall be limited to the maximum extent permitted by law.

6. GOVERNING LAW AND ARBITRATION.

6.1 Mandatory Arbitration. Any dispute or claim between End User and Unwired Fiji arising out of or relating to the Service or Device provided in connection with this Agreement shall be resolved by arbitration before a single arbitrator administered by the Fiji Arbitration Association in accordance with its Commercial Arbitration Rules. The arbitration shall take place in Suva, Fiji and shall be conducted in English. The arbitrator's decision shall follow the plain meaning of the relevant documents, and shall be final and binding. Without limiting the foregoing, the parties agree that no arbitrator has the authority to: (i) award relief in excess of what this Agreement provides; or (ii) award punitive or exemplary damages. Judgment on the award rendered by the arbitrators may be entered in any court having jurisdiction thereof. All claims shall be arbitrated individually and End User will not bring, or join any class action of any kind in court or in arbitration or seek to consolidate or bring previously consolidated claims in arbitration. END USER ACKNOWLEDGES THAT THIS ARBITRATION PROVISION CONSTITUTES A WAIVER OF ANY RIGHT TO A JURY TRIAL.

6.2 Governing Law. The Agreement and the relationship between you and Unwired Fiji shall be governed by the laws of the Republic of Fiji Islands without regard to its conflict of law provisions. To the extent court action is initiated to enforce an arbitration award or for any other reason consistent with Section 6.1, you and Unwired Fiji agree to submit to the personal and exclusive jurisdiction of the courts located within the Republic of Fiji Islands and waive any objection as to venue or inconvenient forum. The failure of Unwired Fiji to exercise or enforce any right or provision of this Agreement shall not constitute a waiver of such right or provision. If any provision of the Agreement is found by a court of competent jurisdiction to be invalid, the parties nevertheless agree that the court should endeavor to give effect to the parties' intentions as reflected in the provision, and the other provisions of the Agreement remain in full force and effect. You agree that regardless of any statute or law to the contrary, any claim or cause of action arising out of or related to use of the Service or the Agreement must be filed within one (1) year after such claim or cause of action arose or be forever barred.

6.3 Entire Agreement. This Agreement and the rates for Services found on Unwired Fiji's website constitute the entire agreement between you and Unwired Fiji and govern your use of the Service, superseding any prior agreements between you and Unwired Fiji and any and all prior or contemporaneous statements, understandings, writings, commitments, or representations concerning its subject matter. No amendment to this Agreement shall be binding upon Unwired Fiji unless and until posted in accordance with Section 6.5 hereof.

6.4 Severability. If any part of this Agreement is legally declared invalid or unenforceable, all other parts of this Agreement are still valid and enforceable. Such invalidity or non-enforceability will not invalidate or render unenforceable any other portion of this Agreement.

6.5 Changes to Terms of Service. Unwired Fiji may change the terms and conditions of this Agreement from time to time. Any changes to this Agreement will become binding on you effective on the date posted to the Unwired Fiji website and no further notice by Unwired Fiji is required. This Agreement as posted supersedes all previously agreed to electronic and written terms of service, including without limitation any terms included with the packaging of the Device.

6.6 Trademarks. All corporate names, service marks, logos, trade names, trademarks, websites and domain names of Unwired Fiji, **unwiredVoice:** and other Unwired Fiji marks (collectively "Marks") are owned by Unwired Fiji and/or its affiliates and nothing herein shall grant you a license to use such Marks.

6.7 Copyright. All Services and/or Materials provided and/or found on the Website are protected by trademark, copyright, or other intellectual property laws. Any commercial use of the Services and/or Materials found on the Website is strictly prohibited, without the express, prior, written consent of Unwired Fiji. Any reproduction or redistribution of the Services and/or materials not in accordance with the terms set forth herein is expressly prohibited by law, and may result in severe civil and criminal penalties.

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