

THE PINES ELANORA FREE WIFI - TERMS OF USE

1. Introduction

- 1.1. The Pines Shopping Centre (Qld) Pty Ltd (ABN 65 055 299 637) (“**The Pines Elanora**”, “**us**” or “**we**”) recognise and value the importance of protecting the privacy of our customers and end-users.
- 1.2. These Terms of Use (“**Terms**”) govern our facilitation of the provision of a Wi-Fi service (the “**Service**”) to you. The Pines Elanora is able to facilitate the Service to you for free because we collect certain information about your receipt of the Service and behaviour at our premises, for example concerning how, where and for how long you use the Service while at our premises.
- 1.3. The Service involves a network of wireless access points that allow a single wireless device to access connections to the internet, once both the user and the device are registered and connected to the Service. Because your registration and your use of the Service is linked to your device, you should not allow anyone else to use your device while connected to the Service.
- 1.4. We may need to collect your personal information (both directly and indirectly). The collection, holding, use and disclosure of your personal information is governed by our Privacy Policy, which is available at [Pines Privacy Policy](#) It is a condition of your receipt of the Service that you provide us with the personal information in question and agree to receive certain content. By registering for and using the Service you are indicating your acceptance of both these Terms and our Privacy Policy. If you do not agree, you must not use the Service.
- 1.5. We may change these Terms at any time and will take reasonable steps to bring any material changes to your attention. As you will be bound by any amendment to these Terms, you should review these Terms from time to time. By continuing to use the Service after any amendment to these Terms, you will be deemed to have accepted the amended Terms.

2. Using the Service

- 2.1. Before using and accessing the Service, you may be required to register some of your details with us, using an online facility that we provide. You may not be able to use the Service without registering, although you may register using a pseudonym. By registering for and using the Service you confirm that you are at least 18 years of age. If you are under 18, you agree that you have the permission of your parent or guardian to use the Service.
- 2.2. Once you have registered, your wireless device will be automatically recognised by the Service, and you will be able to access the internet at any location where the Service is provided.
- 2.3. To use the Service, you must have a wireless device that is capable of accessing a Wi-Fi network. You must not use the Service with any device that you do not own, unless you have the explicit permission of the owner of the device. You must also not let other people use your device when it is connected to the Service. If you use multiple wireless devices, you must register each device individually.

3. Nature of the Service

Our WiFi service is supplied by Skyfii. We use the products and services they supply to help analyse the behaviour of visitors to and on our premises.

- 3.1. Our data analysis products and services enable us to better understand how you and other customers engage with our business. Skyfii may also facilitate the sharing of information and data analysis between Providers. Ultimately, this enables Providers to make the service offering to you more compelling and interesting.
- 3.2. You acknowledge and agree that each time you connect to the Service, and at such other times as we consider appropriate, we may direct your wireless device to a website or other location for the display of promotional or advertising material in any form, including video, and that you may be prevented from use, or further use, of the internet for any duration that we consider appropriate for the display of that advertising or promotional material.
- 3.3. You acknowledge and agree that we may limit or restrict your access to the Service from time to time at our or their discretion, including by controlling the rate at which your wireless device sends and receives data over the Service, by restricting the time a wireless device may be connected to the Service, and by filtering or blocking access to certain websites or other internet accessible material through the Service.
- 3.4. By registering for and using the Service you are indicating your acceptance of both these Terms and our Privacy Policy, as well as the terms of use and privacy policy of our Provider. If you do not agree to all of these documents, you must not use the Service.

4. Collection and use of data

- 4.1. In addition to information you provide to us directly, we may also directly or indirectly collect information about your use of the Service automatically, including about your wireless devices when they communicate with wireless access points. Our Privacy Policy sets out the kind of such information we collect (both directly and indirectly) and why.

- 4.2. You expressly consent to use by us, any Provider, or any third person acting on our behalf or on behalf of a Provider, of any information we collect about you, or about any device associated with you in accordance with our Privacy Policy and for any lawful purpose.
- 4.3. You confirm that all of the information you provide to us, including any personal details, will be complete, true and correct.

5. Marketing

- 5.1. As part of your registration, you may be required to provide a valid email address or mobile phone number to us, or such other electronic contact method that we specify from time to time. We may take such steps (if any) as we think appropriate to verify the information you provide to us.
- 5.2. As a condition of receiving the Service, you further agree to receive communication ("**Messages**") from us, any Provider or any third party acting on our behalf or on behalf of a Provider (each a "**Permitted Sender**") via that email address, mobile phone number or other contact method. We may refuse or suspend our facilitation of your access to the Service if we determine that the email address, mobile phone number or other contact method you have provided is not (or ceases to be) valid.
- 5.3. Examples of the content of Messages you may receive include:
 - material for promotional and marketing purposes, which may relate to products and services offered by us, or other people, companies or organisations;
 - material for survey and research purposes; and
 - material for any other purpose that we consider to be appropriate from time to time.
- 5.4. You acknowledge that certain Messages we may send to you may constitute 'Commercial Electronic Messages' for the purposes of the *Spam Act 2003* (Cth). By registering for and using the Service, you give your consent to the receipt of such Messages.
- 5.5. Should you wish to withdraw your consent to the receipt of Messages from us, you may do so at any time by either notifying us by email at the address: admin@thepineselanora.com.au or by using the unsubscribe facility that we provide with each Message. If you wish to withdraw your consent to the receipt of Messages you should contact The Pines Elanora directly.
- 5.6. Messages may incorporate promotions, advertisements and offers by other people companies or organisations, including ("**Third Party Promotions**"). Third Party Promotions are not associated with, endorsed or recommended by The Pines Elanora or its directors, officers, employees or agents. Any dealings you may have with third parties arising from Third Party Promotions, including the delivery of and the payment for goods and services, and any other terms, conditions, warranties or representations associated with such dealings or promotions, are solely between you and the third party. You acknowledge and agree that The Pines Elanora will not be responsible or liable in any way arising from Third Party Promotions, including any loss you may suffer arising from any act or omission of any third party associated with Third Party Promotions.
- 5.7. Some Third Party Promotions may allow or require you to provide an email address or other electronic contact method independently of The Pines Elanora. You acknowledge that we will have no knowledge or control of you providing such contact information, and you must communicate directly with the person or organisation to which you have provided that contact information in respect of any material sent to you by them, including if you wish to stop the receipt of further material. Any such personal information you provide to such third parties will be governed by the privacy regime of that third party.

6. Linked Sites

- 6.1. We may provide links to third parties' websites, or may divert your wireless device to third party websites from time to time ("**Linked Sites**"). Unless otherwise noted on the Linked Site, Linked Sites are not reviewed, controlled or examined by us in any way. The provision of links to the Linked Sites does not mean that The Pines Elanora or its directors, officers, employees or agents endorse or recommend, or have any association with, the Linked Sites.
- 6.2. You acknowledge and agree that we are not responsible for the content, availability, advertising, products or other materials of any Linked Sites, or any additional links contained on Linked Sites, or the conduct of any person associated with a Linked Site.
- 6.3. Linked Sites may be subject to their own terms and conditions of use. You acknowledge that it is your sole responsibility to review and comply with those terms and conditions, and we have no responsibility for your actions when using a Linked Site.

7. Unacceptable Usage

- 7.1. You must only use the Service in a reasonable manner, consistent with these Terms, the terms and conditions and policies of our Provider, as well as ordinary community standards of behaviour and decency. Under no circumstances may the Service be used for any illegal purpose, or in a manner likely to cause offence to a reasonable person.
- 7.2. You must not exceed the daily usage allowance set, as varied from time to time at our discretion.
- 7.3. You must not use the Service for any purpose which we consider to be unacceptable. Examples of unacceptable behaviour include use of the Service that:
 - would cause you, us or the Provider to be in breach of any law, code, or regulation;

- places any unreasonable impost, burden or strain on the technical resources of the Service, including without limitation the excessive transmission of data;
 - depicts or promotes offensive or illegal behaviour;
 - is offensive or promotes racism, bigotry, hatred or physical harm;
 - would harass or threaten any other person;
 - exploits people in a sexual or violent manner;
 - contains nudity, violent or offensive subject matter;
 - promotes an illegal or unauthorised copy of copyright material;
 - promotes criminal activity or enterprise;
 - could cause us to incur a liability to any third party or entity;
 - violates the privacy or confidentiality of any person;
 - involves compromising the security of any computer system or data storage system;
 - contains, provides or creates computer viruses or deliberately corrupts systems, facilities or data;
 - involves the sending of junk mail or unauthorised commercial electronic messages;
 - alters or modifies the operation of the Service in any way; or
 - involves the resale or resupply of the Service to any person without our written permission.
- 7.4. You acknowledge and agree that we may immediately suspend or terminate our facilitation of your access to the Service if you breach these Terms, or we suspect on reasonable grounds that you have used the Service for any unacceptable purpose.
- 7.5. Suspension and availability
- **We may refuse to register your account and/or facilitate your access to the Service, without giving reasons.**
 - **While we will take reasonable steps to facilitate the availability and security of the Service, you accept that the Service is provided on an ‘as is’ basis. In particular, we may at any time immediately suspend or withdraw access without notice and without giving reasons.**
 - **We do not represent that the Service (or any software underpinning the Service) will be error, defect, “bug” or “virus” free, and you should take ordinary and prudent steps to ensure your own online security and safety.**

8. Liability

- 8.1. You acknowledge that you receive the Service from The Pines Elanora (although in very rare circumstances Skyfii may manage a particular part of a provision of the Service to you). In exchange for us facilitating your access to the Service, you agree to provide us with your personal information and otherwise comply with these Terms.
- 8.2. You acknowledge that the internet is an inherently insecure communication medium, and you use the Service at your own risk. You agree that we have no responsibility for any use, misuse, loss, corruption, interception or delay of information or data uploaded, downloaded or otherwise communicated via the Service. You further acknowledge that you are responsible for keeping all usernames, passwords and other security-based information secure and private at all times.
- 8.3. Without limiting any other provisions of these Terms, we will not in any way be liable to you for any kind of loss or damage incurred as a result of your use of the Service including but not limited to any viruses or other malicious software that may affect you while using the Service.
- 8.4. Without limiting any other clause of these Terms, we make no warranties or representations as to the accessibility, security, stability or reliability of the Service and we explicitly disclaim any liability or responsibility for any faults, failures or interruptions or the accuracy, timeliness, completeness, security or reliability of any communications (including, without limitation, any transactions) made using the Service.
- 8.5. You acknowledge and agree that we have no control over the provision of the Service. We have no obligation to assist you in resolving interruptions, delays or failure nor do we represent that we will be able to facilitate the provision of the Service to you in a timely manner or at all.
- 8.6. Other than express terms of these Terms and warranties, conditions, rights or guarantees implied by relevant legislation, including the *Competition and Consumer Act 2010* (Cth), the exclusion of which from an agreement would contravene a statute or cause part or all of these Terms to be void ("**Non-excludable Rights**"), you agree that we exclude all liability arising from any implied or express representations, terms, conditions or warranties that would otherwise apply to your use of the Service.
- 8.7. Except for liability in relation to breach of any Non-excludable Rights and liability under clause 9.7, our maximum aggregate liability to you in contract, including for one or more breaches of any express term or terms of these Terms, tort (including negligence), statute or otherwise, is limited to the higher of:
- an amount equal to the total amount paid by you to us under these Terms during the 12 months before the first event giving rise to a liability occurred, or
 - one Australian dollar (\$1).
- 8.8. For breach of any Non-excludable Rights (other than where by law liability for breach of Non-excludable Rights cannot be limited), our liability is limited, at our option to, where the breach relates to goods, the repair or replacement of the goods or paying the cost of having the goods repaired or replaced, or where the breach relates to services, supplying those services again, or paying the cost of having those services supplied again.

- 8.9. To the maximum extent permitted by law, under no circumstances will we be responsible to you or any third party whether in contract, tort (including negligence), in equity or under statute for any special, indirect, consequential, incidental or punitive damages, including damages for loss of opportunity, profits, revenue or goodwill, regardless of whether or not such loss or damage was foreseeable and even if advised of the possibility of such loss.
- 8.10. You indemnify us and our related bodies corporate, directors, officers, employees and agents from and against all actions, claims, suits, demands, damages, liabilities, costs or expenses, including reasonable legal fees, arising out of, or in any way connected to your use of the Service or information or content available by means of the Service, or the use of the Service by anyone using your wireless device.

9. Termination

- 9.1. You may end your access to the Service at any time by notifying us by email at the address: admin@thepineselanora.com.au or using the unsubscribe facility that we provide in any Message. Ending your access in this way will end your ability to access the Service and you will need to register again with us if you change your mind. We will not, however, delete any data or personal information we have collected about you or your use of the Service prior to this date, which will be retained and destroyed in accordance with our Privacy Policy.
- 9.2. We may terminate our facilitation of your access to the Service without notice or cause for any reason. Reasons we may terminate our facilitation of your access to the Service include where:
- 9.3. you breach of any of these Terms;
- 9.4. we have ceased to facilitate access to the Service in whole or in part;
- 9.5. our business or contractual relationships with our Provider requires us to do so; and/or
- 9.6. we consider that you have done something that is detrimental to our business interests or reputation.
- 9.7. You acknowledge that none of The Pines Elanora or any other person will have any liability to you for any reason whatsoever arising from any termination of your access to the Service (including the termination of our facilitation of your access to the Service).

10. General

- 10.1. If any provision in these Terms is void or unenforceable, that provision will be read down to the extent necessary to make it valid and enforceable and to the extent that it cannot be so read down, will be severed from these Terms.
- 10.2. If there is a contradiction or inconsistency between these Terms and any other notices, policies, communications or documents relating to the Service, these Terms will prevail to the extent of that contradiction or inconsistency, unless we expressly agree otherwise in writing.
- 10.3. Your rights and obligations under these Terms are personal to you and you must not assign, transfer, sub-contract or otherwise dispose of any or all of your rights and/or obligations under these Terms. We may assign, transfer, sub-contract, novate or otherwise dispose of any or all of our rights and/or obligations under these Terms without notice to you.
- 10.4. Regardless of the jurisdiction in which you are based on in which we have facilitated for you to receive the Service, these Terms are governed by the laws in force in Queensland, Australia and the parties agree to be bound by the non-exclusive jurisdiction of the Courts of Queensland, Australia.