

General Terms & Conditions



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Ver. 1.5
Issued: 19/01/2019



General Terms & Conditions

Internet-1 Pty Ltd (ABN: 59 622 042 317) ("Us") will supply you with telecommunications services ("Services") on the terms and conditions set out below. Words not defined in these terms and conditions have the same meaning as in the *Telecommunications Act 1997* (Cth) ("Telecommunications Act").

1. Our Contract with You

- 1.1. As a customer of ours, these terms and conditions form the basis of our contract with you ("Contract").
- 1.2. The Contract with you also includes your application/order form(s) or voice recording, which you complete and provide to us. We may accept and rely on a facsimile, email or scanned copy of the application or order form as if it was an original. You will be bound by a facsimile, email or scanned copy of the application or order form as if it was an original.
- 1.3. The Contract with you also includes our currently applicable price list. The price list may change from time to time, but we will notify you of any changes when they happen or prior to any such changes being effected. Copies of the price list are available from us, upon request.
- 1.4. The Contract is formed on the date on which we notify you of our acceptance of your application or you issue the first order form.

2. Service Description

- 2.1. Services will be supplied to you through the carriers or networks ("Carriers") that we nominate in writing from time to time. You agree that we:
 - 2.1.1. May need to change Carriers to continue to deliver Services to you. We will notify you of such change, including who the new Carrier will be, in writing, prior to any change being effected.
 - 2.1.2. Have your express authorisation to notify any relevant Carrier in respect of, and to effect, any such change.
- 2.2. We do not warrant that we will be able to supply Services and we are not liable for any failure to provide all or part of any of the Services, but, to the extent and to the standard that Carriers provide Services to us, those Services will be provided by us to you. When your connection is disrupted, we will do our best to reinstate our Services to you as soon as we can.

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2.3. When using the Services, you agree to:

- 2.3.1. to comply with all statutes, regulations, by-laws or licence conditions of any government body; and
- 2.3.2. to not breach any person's rights or otherwise cause us or a Carrier loss, liability or expense; and
- 2.3.3. that our obligations to provide the Services ceases when we transfer your account to another supplier and the other supplier takes over full billing of those Services.

3. Charges and Payments

3.1. You agree during the term of the Contract:

- 3.1.1. to be charged for the Services we provide to you, regardless of whether it is you who uses them, at our current prices;
- 3.1.2. if our charges are expressed as being exclusive of any taxes, that we can pass on to you the full amount of any taxes payable on the charges; and
- 3.1.3. to pay accounts for all of those charges (including any applicable taxes) by the date specified in the account ("Due Date").

3.2. If you dispute in good faith an amount in the account, you must notify us in writing within seven days setting out reasons for the dispute and the amount in dispute. Notwithstanding any dispute as to any amount of any charge, you must pay the whole amount of each account by the Due Date.

3.3. If you do not pay the whole amount of your account by the Due Date, then we may charge a late payment fee of onto your invoice and suspend all or part of your Services pending payment of outstanding amounts on the account. Nothing in this clause affects our rights to terminate the Contract under clause 9.

3.4. If you do not pay the account by the Due Date, we also reserve the right (at our discretion) to adjust the prices you pay for the Services.

3.5. If you direct us to transfer any of the Services to another supplier, you will pay to us on receipt of an account under our normal payment terms:

- 3.5.1. all of our accounts up until the time we stop providing the Services; and
- 3.5.2. all other proper charges that we become aware of after the date of cessation of Services that relate to the Services we provided to you; and
- 3.5.3. any early termination charges or fees associated with the cancellation of your service.

3.6. Payments are collected by our authorised billing and payments provider Telecom Billing (ABN: 42 144 043 863) (or such other authorised billing and payments provider advised by us to you from time to time) acting as authorised agents for us.

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4. GST

- 4.1. In this clause, an expression defined in the *A New Tax System (Goods and Services Tax) Act 1999 (Cth)* ("GST Act") has the same meaning.
- 4.2. Our prices are taken to be GST inclusive unless they are expressed to be 'GST exclusive', 'exclusive of GST', '+ GST' or similar.
- 4.3. Where any amount is GST inclusive, it is the gross amount, inclusive of any GST payable in respect of any taxable supply for which that amount is paid. Otherwise:
 - 4.3.1. The consideration payable by you represents the value of any taxable supply for which payment is to be made.
 - 4.3.2. If we make a taxable supply for a consideration, which represents its value, then you must pay immediately the amount of any GST payable in respect of the taxable supply.
- 4.4. If these terms require you to pay, reimburse or contribute to an amount paid or payable by us in respect of an acquisition of a taxable supply from a third party, the amount you must pay, reimburse or contribute will be the value of the acquisition by us less any input tax credit to which we are entitled plus, if our recovery from you is a taxable supply, any GST payable under this clause.
- 4.5. We may recover any GST payable under this clause in the same manner as our charges.
- 4.6. If the GST rate is changed per the GST Act, our rates to you will reflect the changes in GST.

5. Amendments to Terms and Conditions

- 5.1. Without limiting clause 3.1, we may vary, alter, replace or revoke any of these terms and conditions effective upon the expiry of 14 days written notice from us. We may interpret your ongoing use of the Services after that date as constituting your acceptance of the variation, alteration, replacement or revocation.

6. Credit Check

- 6.1. Prior to our acceptance of your application, you have provided to us all information relevant to our assessment of your credit rating. You have consented to the following:
 - 6.1.1. us obtaining from a credit reporting agency a credit report containing personal information about you;

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- 6.1.2. us giving to, and seeking from, any credit provider named in a credit report or in your application, information in relation to your credit rating including without limitation any information about your credit worthiness, credit history or credit capacity that credit providers are allowed to give or receive from other credit providers under the *Privacy Act 1988* (Cth) (“Privacy Act”);
- 6.1.3. us making independent enquiries of third parties concerning your financial standing and for this purpose you have authorised and permitted such third parties to supply such information regardless of any confidentiality or privilege which applies to the information sought; and
- 6.1.4. us providing any information we obtain about you to the relevant Carrier.

7. Transfer of Services

- 7.1. When you transfer any services (“Transferred Services”) from a Carrier, a telecommunications service provider or equipment supplier who supplies telecommunications services or equipment to you at the time of our acceptance of the application (“Current Supplier”) to us, you authorise us to sign on your behalf and in your name any forms required by the Current Supplier to transfer the Transferred Services as we direct.
- 7.2. You agree to immediately pay to the Current Supplier any amounts owing for the Transferred Services up to the date of the transfer.

8. Limit on Liability

- 8.1. We do not exclude or limit:
 - 8.1.1. the application of any provision of any statute (including the *Competition and Consumer Act 2010* (Cth), the *Privacy Act 1988* or the *Telecommunications Act 1997* where to do so would contravene that statute or cause any part of this clause 8 to be void; or
 - 8.1.2. direct losses and damages which arise only as a result of our gross negligence (which means where we commit an act or allow an omission to occur in reckless disregard of the consequences of the act or omission).
- 8.2. Except where clause 8.1 applies, we exclude all statutory liability, tortious liability (including but not limited to liability in negligence), conditions and warranties implied by custom, the general law or statute, liability for all direct, economic, consequential or indirect losses, expenses, damages and costs incurred by you, arising out of or relating to the Services, any failure to supply or delay in supplying the Services, any delay in the connection or failure in the operation of the Services or out of or relating to the Contract.

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8.3. Including, but not limited to, liability for gross negligence and except to the extent of clause 8.1.1 we are not responsible or liable for any indirect consequential or economic damages, including, without limitation, loss of income or profit or loss of actual potential business opportunities.

8.4. You acknowledge that any liability of any Carrier to you in relation to the Services is governed by the terms and conditions on which that Carrier from time to time supplies that service to its own retail customers.

9. Termination of Agreement

9.1. We reserve the right to charge to you an administration fee, termination fee or any other charges incurred by us in providing the Services to you if you terminate the Contract prior to the full Contract term. The details on how the cancellation/early termination charges are calculated are provided in the applicable product section these terms and conditions.

9.2. We may immediately terminate this agreement by written notice at any time if, without our prior written consent:

9.2.1. you breach any term or condition of the Contract;

9.2.2. a receiver or receiver and manager is appointed over any of your property or assets;

9.2.3. a liquidator or provisional liquidator is appointed to you;

9.2.4. you become bankrupt;

9.2.5. you enter into any arrangements with your creditors;

9.2.6. you assign or otherwise deal with your rights under this agreement;

9.2.7. you cease to carry on business; or

9.2.8. there is a material change in your direct or indirect ownership or control.

9.3. We may also immediately terminate the Contract at any time by written notice if the Carriers cease to provide services necessary for us to be able to provide the Services to you.

9.4. If we terminate the Contract in accordance with this clause and a Carrier arranges to supply you services other than through us, you acknowledge that:

9.4.1. the Carrier may not be able to make those arrangements immediately; and

9.4.2. once the Carrier has made arrangements, the services acquired by you from the Carrier will be acquired on the Carrier's then current tariffs and terms and conditions and the Carrier will bill you accordingly.

10. Information

10.1. Without limiting clause 6.1, you agree to provide us with any information we request in connection with us providing the Services to you under this agreement.

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10.2. You authorise and consent to the following:

- 10.2.1. us conducting a physical audit of the Services and any equipment supplied in respect of the Services should we consider it necessary;
- 10.2.2. us exchanging with Carriers all information about you and the Services provided to you in our possession or control including, but not limited to, your name, billing address, street address, relevant telephone numbers, any information obtained by us for the purpose of your application and the Contract; and
- 10.2.3. the Carrier exchanging with us any information in the Carrier's possession or under its control in relation to the Services including, without limitation, all your records and, in particular, exchange line details, account information, call charge records and call event records; and
- 10.2.4. our, and the Carrier's, use of the information referred to in clauses 10.2.2 and 10.2.3.

11. Assignment

- 11.1. Your rights under the Contract are personal. You must not assign or attempt to assign any right or obligation under the Contract without our written consent. We may assign all or any of our rights and obligations under the Contract at any time by notifying you in writing.

12. Warranty of Authority

- 12.1. Any persons signing this agreement on your behalf warrant that they have full power and authority to bind you in respect of this agreement.

13. Our Equipment

- 13.1. Risk in any equipment provided by us or any third party to you for purchase or hire ("Equipment") passes to you upon delivery. You will accept any Equipment on the basis of these terms and conditions and any additional terms and conditions notified at the time of delivery.
- 13.2. Title to any Equipment provided for purchase does not pass to you until all amounts owing to us under the Contract and the cost of such Equipment have been paid in full. Until title passes to you, the Equipment will be held by you as bailee for us.
- 13.3. If the Equipment is installed at premises occupied by you, you must not interfere with the Equipment or its installation.
- 13.4. If the advertised Equipment becomes unexpectedly unavailable, we may supply substitute Equipment that is substantially equivalent to the advertised Equipment.

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- 13.5. If the advertised Equipment is not technically suitable for your situation, we may supply substitute Equipment that is substantially equivalent to the advertised Equipment.
- 13.6. You irrevocably grant to us, our agents and servants, leave and licence without the necessity of giving any notice to enter at any time on and into premises occupied by you using reasonable force if necessary to inspect, search for and re-take possession of any Equipment in respect of which payment is overdue. You shall indemnify us and hold us harmless against any loss or damage suffered by any person or company arising from re-taking such possession.
- 13.7. On the termination of the Contract for any reason, you will immediately return all Equipment owned by us or make it available for our collection. Should you fail to do this within 30 days of the date of termination, you will be invoiced for the cost of the Equipment as applicable.
- 13.8. Where you have equipment on premises you occupy which is used by another supplier to provide you with services, we will disconnect that equipment when you transfer the services to us and we connect our Equipment (if any). You must immediately notify that supplier that you have transferred your services to us and arrange for them to remove their equipment from the premises.

14. Installation and Connection of Equipment

- 14.1. This clause only applies if we expressly agree to install or connect Equipment.
- 14.2. We will install the Equipment at your site within a reasonable time after the delivery date to connect you to the Service during normal business hours in your area. You must provide us with safe access.
- 14.3. You must prepare the site for the installation (in accordance with any directions or specifications issued by us) at your own expense, including providing:
 - 14.3.1. appropriate electricity supply;
 - 14.3.2. appropriate electrical and mechanical fittings;
 - 14.3.3. appropriate environmental conditions;
 - 14.3.4. a secure location for the Equipment, including if applicable a suitable point for mounting an external satellite dish without obstructions;
 - 14.3.5. all relevant facilities for the location of the Equipment;
 - 14.3.6. access to all relevant personnel including your technical personnel;
 - 14.3.7. where relevant, permission for us and our representatives and agents to enter your site and install the Equipment including making any minor physical modifications reasonably necessary for the purpose.

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- 14.4. You warrant to us that as at the date of installation and connection to the service, you will have notified any relevant parties and obtained all relevant consents for us to enter onto your site, install Equipment and connect you to your service.
- 14.5. You must indemnify us against any claim made against us, or loss incurred by us (including legal cost on full indemnity basis), in connection with such entry and installation, except to any extent that we cause or contribute to it by:
 - 14.5.1. our negligence; or
 - 14.5.2. our breach of any applicable consumer standards.
- 14.6. You must obtain and maintain, at your expense, any permits, licences, approvals, authorisations, including local council planning approval required for the installation and operation of the Equipment and connection to the service.
- 14.7. If the installation must be rescheduled because you breach this clause, we charge a reasonable amount for our additional costs.

15. Lost, Stolen and Damaged Equipment

- 15.1. You are responsible for any lost, stolen and damaged Equipment owned by us, except if it is caused by us or our personnel.
- 15.2. You must pay us for Equipment that is lost, stolen or damaged, except if it is caused by us or our personnel.

16. Miscellaneous

- 16.1. Any notice, demand, consent or other communication required to be given to either party must be delivered personally or sent by prepaid mail or by facsimile to the address of the other as last notified.
- 16.2. The Contract shall be governed by and construed in accordance with the laws of the State or Territory of Australia wherein the Services are connected, and the parties hereby submit to the non-exclusive jurisdiction of the courts of that State or Territory of Australia.
- 16.3. The Contract contains your and our entire understanding to the exclusion of any and all prior or collateral agreement or understanding relating to the Services, whether oral or written.
- 16.4. If any part of the Contract is found to be invalid or of no force or effect, the Contract shall be construed as though such part had not been inserted and the remainder of the Contract shall retain its full force and effect.

17. Authorised Representative

- 17.1. If you wish to appoint an authorised representative (“Authorised Representative”) to deal with us on your behalf you may do so.

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- 17.2. Please consider carefully before authorising somebody to make changes to your account. An Authorised Representative you appoint can deal with us on your behalf as your agent (including making a complaint) and;
- 17.2.1. if you specifically give them limited rights; has only those rights including any limitations you specify on access to your information; and
- 17.2.2. if you do not give them limited rights; has power to act and access information as if they are you.
- 17.3. We may also accept a person who holds an appropriate Power of Attorney or Guardianship Order as an Authorised Representative for a customer. Please forward a certified copy of the Power of Attorney or Guardianship Order to us. We may need to have the documents checked before we can accept the appointment. Please request a copy of the form to add an Authorised Representative from our Customer Service team, should you wish to add an Authorised Representative to your account.

18. Personal Guarantee

Where you are a company ("Customer"), the persons named in the application form as directors of the Customer hereby jointly and severally guarantee to us:

- 18.1. payment of all amounts payable by the Customer under the Contract on the day and times and in the manner due thereunder; and
- 18.2. due and prompt performance and observance of any and all covenants, obligations, terms and conditions on the part of the Customer to be performed or observed pursuant to the Contract.

This guarantee will be a continuing guarantee and will not be released by any partial payment or by any neglect or forbearance on the part of us or any time or other indulgence granted by us to the Customer, nor shall we be required to first demand payment from the Customer as this guarantee will operate as an independent agreement which is in no way dependent upon the terms of any other agreement. You covenant to indemnify us and keep us indemnified from and against all actions, proceedings, costs, damages, expenses, claims and demands whatsoever for or in respect of the non-payment of the said amounts or any part thereof or the breach, non-performance or non-observance of any of the said covenants or conditions of the Contract by the Customer.

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