



BUSINESS TELECOM GENERAL TERMS AND CONDITIONS

Business Telecom - General Terms and Conditions

Business Telecom Australia Pty Ltd trading as Business Telecom Australia ("Business Telecom") ABN 54 606 253 418 of L2, 460 Church Street, North Parramatta, NSW 2151, Business Telecom will provide you with services in accordance with these terms and conditions and other provisions of the Agreement.

1. DEFINITIONS

Undefined or un-interpreted words used in this Agreement shall have the same meaning as in the Telecommunications Act 1997 (Cth).

1.1. Definitions

Account Application means the account and telephone application forms headed 'Application for Telecommunication Services' and 'Application for Telephone Account' respectively, either or both of which are completed by you and to which these terms and conditions are attached.

Acceptable Use Policy means our policy about the acceptable levels and methods of use of the Broadband Service,

Airtime Services means the services we provide to you. The services include long distance national and international calls, calls from fixed lines to mobile phones and local calls.

Agreement means any agreement between Business Telecom and you, for the supply of products or services provided by Business Telecom, including telecommunications, data and managed services.

Telecommunications and Data Agreement means the agreement between Business Telecom and you for the provision of Services, comprising these terms and conditions ("General Terms"), the Account Application once accepted by us and our current Tariff Schedule, also referred to as a "Rate card".

Broadband Service means the broadband service we provide from the equipment to the internet.

Confidential Information of a party includes all information of a party marked as confidential or which the other party knows or ought reasonably to be aware is confidential (regardless of its form and whether the other party becomes aware of it before, on or after the date of this Agreement) but excludes information that is publicly known other than as a result of a breach of the obligations of confidentiality under this Agreement.

Consequential Loss means: (a) loss of profits, loss of revenue, loss of opportunity, loss of anticipated savings, pure economic loss, loss or corruption of data, loss arising from any unauthorised or illegal access by any person to any part of the system providing the Products or Services (including cyber attack, hacking, cracking, virus dissemination and denial of service attacks), loss of value of equipment (other than cost of repair), loss of opportunity or expectation loss and any increased operating costs suffered or incurred by any person whether arising in contract or tort (including negligence) or under any statute, any other form of consequential, special, indirect, punitive or exemplary loss or damages and any third Party loss; and (b) any penalties or fines imposed by a Regulator.

Data Services means the data services supplied by Business Telecom to you under the Telecommunications and Data Agreement.

Customer Data means the Customer's information, data or other electronic materials.

Customer's Users (or "Users") means any officer, employee, agent, contractor or representative of the Customer that use, or request to use, the Products or Services.

Discount means the deduction of a payment made by us for services provided to you. Credit Reporting Agency means a credit reporting business as defined in the Privacy Act 1988 (Cth).

Current Supplier means a Carrier or Service Provider who supplies Telecommunication Services to you at the time of you signing the Agreement.

Customer means the customer identified in the Account Application, also referred to as 'you'.

Data Calls are calls made from modem(s) to modem(s) on voice lines.

Data Speed means the speed at which data bits, comprising both protocol headers and data payload, are carried.

Eligible Calls are Local Calls, National Calls, International Calls and Calls to Mobile Telephones. GST has the same meaning as in the GST Act.

GST Act means A New Tax System (Goods and Services Tax) Act 1999 (Cth).

Included Calls means eligible calls included within a Plan.

Customer IT Environment means the systems, platforms, services, software, devices, sites and/or networks that the Customer uses in its' own internal business operations.

Managed Environment means the Customer's IT Environment that Business Telecom manages under this Agreement.

Managed Services means the managed services provided by Business Telecom, and as described in "Managed Services - Description of Services".

Managed Services Agreement (MSA) means the agreement for the provision of Managed Services, and as described in clause 1.3 of these General Terms.

Monthly Plan Discount means the maximum deduction of a required payment for Plan Fees provided to you by us in each month during the term of the Agreement.

Monthly Plan Fees means the Fee payable by You each month for particular services provided to you by us in each month during the term of the agreement and thereafter.

Monthly Included Calls means the maximum amount of call usage provided to you under your particular call plan by us in each month during the term of the agreement.

Other Supplier means a Carrier other than Business Telecom, who supplies Telecommunication Services.

Person means "entity" as that term is defined in section 64A of the Corporations Act 2001.

Product means any product provided to you by Business Telecom (this may be a third party supplied product)

Rate Card has the same meaning as in the Tariff Schedule.

Rental Agreement means the agreement between us or our related body corporate (as defined in the Corporations Act) (as introducer, agent or principal) and you for the rental of telephony or other equipment dated on or about the date of this Agreement.

Related Bodies Corporate has the meaning given to it in the Corporations Act 2001 (Cth).

Service means any service provided to you by Business Telecom (this Service may be supplied by a Business Telecom third party supplier)

Settlement Date means the date of commencement of the Rental Agreement or otherwise the date of commencement of the applicable Telecommunications or Data Services.

Tariff Schedule means our tariff schedule (excluding GST) as at the date of the Agreement accompanying these terms and conditions as replaced from time to time in accordance with Clause 4.4.

Transferred Services means the Telecommunication Services transferred to us from your Current Supplier.

Voice Services means a telephone call made from one person(s) to another person(s) and specifically excludes data calls from modem(s) to modem(s).

Telecommunication Services means telephony services as agreed between you and us from time to time.

1.2 Interpretation

(a) The expressions "we", "our" and "us" refer to Business Telecom; and (b) the expressions "you" and "your" refer to the Customer. (c) The singular includes the plural and conversely. (d) A reference to a gender includes all genders. (e) A reference to dollars or \$ is to Australian currency (f) All representations, warranties and indemnities are continuing and survive termination or expiry of this agreement.

1.3 Structure of Agreement for Business Telecom Managed Services

The Managed Services Agreement comprises:

- Tariff Schedule (Rate Card)
- Managed Services Product Terms
- Description of Services (for managed Services)
- These General Terms

Unless expressly stated otherwise, if any of these documents is inconsistent with any other, then the documents will prevail in the order listed above.

1.4 Structure of Agreement for all other Business Telecom Products and Services

Your Agreement for any Business Telecom Products or Services (excluding Managed Services) comprise of:

- These General Terms
- Account Application and Tariff Schedule ("Rate Card")

If these General Terms are inconsistent with any other document forming part of the Agreement, then these terms and conditions shall prevail to the extent of any inconsistency.

2. PERIOD OF AGREEMENT

2.1 Commencement and Term: The Agreement commences on the date the Account Application is signed by both parties, and, unless the term is specified elsewhere in the Agreement, continues until terminated in accordance with this agreement.

2.2 Commencement of Telecommunications and Data Services: The provision of Telecommunications and / or Data Services commence when the Transferred Service accounts are transferred from your Current Supplier to our nominated Carrier by your Current Supplier and upon completion of installment of any necessary equipment and any other arrangements with any other Supplier for the provision of the Services.

3. PROVISION OF TELECOMMUNICATIONS & DATA SERVICES

3.1 We will provide you with our Services within a reasonable time after commencement of the Telecommunications and Data Agreement. You will use the Telecommunications and Data Services in accordance with this Agreement and all applicable laws.

3.2 Business Telecom will manage the transfer of your Voice Services from your existing service provider. Porting may take between 6-8 weeks to complete.

3.3 Business Telecom may change the technical specification of the services without notice to you. Business Telecom may change the manner in which the

Telecommunications and Data Services are provided to you, including changing the service provider, without notice to you.

3.4 Business Telecom may provide the Services by: (a) programming your telephone system equipment for the override code nominated by us; (b) preselecting your pre-selectable services to a service provider nominated by Business Telecom; or (c) by any other method available to Business Telecom.

3.5 You agree to transfer the Services to Business Telecom by use of any method nominated by Business Telecom including but not limited to preselection or override.

3.6 You warrant that you do not have a contractual obligation with another Carrier or Service Provider relating to these services.

3.7 If you subsequently wish to port your services from Business Telecom to another supplier, you must contact that other supplier and organise for them to port your services.

3.8 With regards to the Broadband Service, you must not use, attempt to use or allow others to use the Service in a way that, in our reasonable opinion, significantly interferes with other customers' use or enjoyment of the Service or interferes with our efficient or proper operation of the Service

3.9 Whilst Business Telecom will use commercially reasonable efforts to provide the best possible service, the availability of the services is dependent upon a number of factors including the telephone line which is connected to your location, the geographical location in respect to the distance of the exchange, technical capability of your premises and provision of the services from our wholesale supplier.

3.10 Delivery of services, voice and data, are all subject to available capacity and infrastructure.

3.11 Business Telecom will have no liability to you for inability to supply the services.

3.12 You must cooperate with us in connecting and supplying Services to you safely and efficiently, including, if required, access to your premises.

3.13 You must make sure you keep your account information, password, data and equipment secure

3.14 (a) We will use reasonable care and skill in providing the Service and will provide the Service in accordance with the Telecommunications and Data Agreement. However, given the nature of telecommunications systems, we cannot promise that the Service will be continuous, accessible at all times or fault free. We cannot guarantee the speed of the service (b) we may not be able to meet a request from you to provide detailed information about your usage of your Service (e.g., information about what sites you visited and when). (c) We do not have to monitor use of the Service, whether by you or anyone else. We may monitor use of the Service to see whether you are complying with the Acceptable Use Policy. However, we are not under any obligation to enforce the Acceptable Use Policy or any other policy that applies to anyone using services that we provide to them. (d)

Where you provide your own wireless PC connection device, you are responsible for any loss caused by an unauthorised interception of your service. (e) We are not responsible for any loss caused by equipment provided by someone other than us.

3.15 (a) We do not provide technical support services for configuring your local area network or to connect it to your Service, and do not provide assistance with local area network related difficulties; we do not provide technical support for Domain, Web or Email Hosting.

(b) You are responsible for all charges in respect to usage and the use of your service whether or not such usage was authorised by you. (c) Business Telecom is not responsible for any usage incurred from an infection on your computer or monitor your usage of the Service to ensure that such usage is not excessive or unusual and otherwise to network. (d) We may, but are not obligated to, ensure that you are not misusing the Service.

(e) Business Telecom does not allow a third party to use your service without direct authorisation by us. (f) You are solely responsible for the following: Sites and content assessed, Content and software downloaded and the result it may have on your Service, the products and services purchased, the modification of any settings or data on your Service, the lawfulness of your activities when using the service.

3.16 Business Telecom will provide the service to you on the basis that it will be used for appropriate purposes. Specifically, you must: (a) Not use the Service for any illegal or misleading activities (b) Not breach any standards or codes set out by relevant authorities and industry bodies. (c) Not use the service which may affect, upset or offend any person using the same service. (d) Obey all laws and regulations. (e) provide all information we may need in relation to your service. (f) Advise Business Telecom of any changes in your account such as personal information, debit/credit card details and addresses relevant to your service.

4. BILLING

4.1 Invoicing: We will invoice you for products and services provided by Business

Telecom.. We will usually invoice you on a monthly basis for the Services in accordance with the Tariff Schedule, which may change from time to time in accordance with the Agreement. All charges invoiced to you will include GST. We reserve the right to defer billing in respect of any billing period and to add the charges incurred to any subsequent billing period. We try to include all charges relating to a billing period on that invoice. Where that does not happen, invoices may include charges from previous billing periods as long as we comply with the Australian Communications Forum Industry Code - Billing (C542).

4.2 Method of Billing: (a) Billing for Telecommunication and Data Services We will invoice you in arrears for all telephone usage charges, and in advance for all periodic charges, equipment rental, connections, service fees and all other charges. The invoice shall be calculated in accordance with data recorded and supplied to us by the Carrier, and shall not be calculated by reference to any data recorded by the Customer. (b) Billing for Managed Services. We will invoice you in advance for Managed Services

4.3 Method of Invoice for All Business Telecom Products & Services: The Business Telecom invoice is electronically billed as an attachment to an email. If you choose another method, you may incur fees and charges.

4.4 Payment Terms for All Business Telecom Products & Services: All invoices must be paid within 14 days of the issue date. If your invoice is paid by credit card, we can charge you a payment processing fee. Refer to your invoice for the fee.

4.5 Method of payment for All Business Telecom Products & Services: Direct debit is available for all accounts. If you select an alternative method of payment, an \$8.95 fee (ex GST) per month will apply.

4.6 Changes to Charges for Telecommunications & Data Services: Subject to clause 4.5, from time to time we may increase our charge for any Service (including decreasing the rate of any discounts associated with Services) by giving one month's notice in writing to you of the new Tariff Schedule.

4.7 Other Suppliers' Charges for Telecommunications & Data Services: Our charges to you may include charges which Other Suppliers' charge to us in relation to your account (including increases or special or one off charges) from time to time without notice.

4.8 Other Charges for Telecommunications & Data Services: (a) You will pay to us in accordance with this clause 4 any charges which any Other Supplier charges to us because you approach that Other Supplier directly, or, otherwise than through us. (b) You will pay to us in accordance with Clause 4 any charges which any Other Supplier or other Person charges to us for connection or initiation of any Service or for cancellation of any Service.

4.9 Overdue Amounts for All Business Telecom Products & Services: If you do not pay your bill by its due date, we can charge you an administration fee of up to \$49 ex GST. If you do not pay a bill by its due date and we notify you through an overdue notice, we may bar, suspend or cancel the services, and we can charge

you an administrative fee (told to you on your bill or by other written notification) to unbar or reconnect your services.

4.10 Disputed Amounts:

- a. Business Telecom commits to providing you with invoices that are accurate and verifiable. Our records are sufficient proof that a charge is payable unless they are shown to be incorrect. In the event that an invoice is disputed by you, you agree to pay to us all amounts payable pursuant to the disputed invoice without deduction or setoff and we agree to refund any monies found to be charged incorrectly after reasonable and proper investigation.

b. For Managed Services only:

- i. If the Customer in good faith disputes all or part of an invoice, you must contact Business Telecom within ten (10) business days of the date of the invoice setting out reasons for the dispute, and the specific amount in dispute.
- ii. As described in 4.10(a) you agree to pay the entire amount owing under the disputed invoice, and if the investigation demonstrates an error in the billing, the disputed amount will be refunded to you.
- iii. Failure by the Customer to dispute an invoiced amount in accordance with clause 4.10(b)(i) will constitute a waiver by you of any objection to such amount.
- iv. Business Telecom's decision regarding the outcome of the dispute is final

4.11 Your obligations under your Agreement, including the obligation to pay the charges referred to in this clause 4, are several and independent from your or our obligations under any other agreement you may have with us or other related

bodies corporate, including any Rental Agreements with a sign date on or about the date of your Agreement.

5. BUSINESS RATES PLANS: Business Telecom BUSINESS RATE PLANS provide Monthly Plan Discounts up to an agreed Maximum Monthly Plan Discount according to the particular agreement between you and Business Telecom.

5.1. Monthly call discounts or included calls are forfeited if not used in the month that they occur.

5.2 Business Telecom Business Rate Plans include Monthly Business Plan Fees, Monthly Business Plan Discounts, Monthly Included Business Calls and Plan Fees. Refer to the Tariff schedule for your plan(s).

5.3 We reserve the right to reduce any available plan discounts immediately if you

are found in breach of your Agreement or otherwise by giving one month's notice in writing to you.

5.4 If arrangements between our nominated carrier and Business Telecom are terminated, the nominated carrier may arrange to supply the Customer directly. The Customer acknowledges that the rate plan applicable to the provision of services to the Customer may be altered to the nearest applicable Carrier rate plan in the event that the rights and obligations of Business Telecom under the Customer Contract are assigned or novated to the Carrier so that the Carrier provides the services directly to the Customer.

6. MINIMUM TERM: A MINIMUM TERM AS SPECIFIED IN THIS AGREEMENT APPLIES TO Business Telecom PLANS.

7. FLAGFALL CHARGES: FLAGFALL CHARGES APPLY TO NATIONAL calls, INTERNATIONAL calls AND CALLS TO MOBILE PHONES If indicated on your Rate

Card(s).

8. TRANSFER OF YOUR TELECOMMUNICATIONS OR DATA ACCOUNT FROM YOUR CURRENT SUPPLIER

8.1 Transfer to us: By signing the Telecommunications and Data Agreement: (a) You authorise us to sign on your behalf and in your name forms of authority to your Current Supplier as are necessary to transfer the Services as detailed this Agreement. (b) If we request, you will yourself give written instructions to your Current Supplier to transfer the services from your name to ours. (c) You will immediately pay your Current Supplier all amounts owing to it for the Transferred Services up to the time of transfer of those accounts.

8.2 Re-Issued Bills: We reserve the right to reissue any bill in order to correct any error, omission or miscalculation, subsequently discovered. The reissued invoice will then take precedence over any prior invoice

9. TRANSFER OF YOUR TELECOMMUNICATIONS OR DATA ACCOUNT FROM US TO OTHER SUPPLIER

9.1 Transfer of Services: If, in the future, you request to transfer any of the Services to any Other Supplier, you will remain responsible to us for the amount payable for the Services up to the time when the services have successfully transferred to the Other Supplier, and you will pay us that amount in accordance with Clause 4.

10. VARIATIONS TO THE AGREEMENT

10.1 Without Notice: We may from time to time vary the Agreement without notice: (a) by changing the Carrier we use to carry your call traffic; or (b) by reducing your obligations under the Agreement (including all charges).

10.2 With Notice: We may otherwise vary the Agreement by one month's notice in writing to you.

11. CREDIT CHECKS & OTHER CHECKS

11.1 Terms used in this Clause 11, which may have a defined meaning under the Privacy Act, 1988 (Cth) have the same meaning in this Clause 11.

11.2 Personal information in our possession that relates to you may be disclosed by us to a Credit Reporting Agency, and you hereby consent to such disclosure.

11.3 You agree that we may obtain a credit report relating to you from a Credit Reporting Agency for the purpose of either processing your application with us for commercial credit, or for collecting overdue payments in respect of commercial

credit provided to you by us.

11.4 You agree that we may disclose a credit report or other report relating to you or any other personal information derived from that credit report or other report to

any other credit provider for any of the following purposes: (a) the assessment by us or the other credit provider of your creditworthiness. (b) The collection by us or the other credit provider of payments that are overdue, or (c) the exchange of information between us and the other credit provider for the purposes referred to in sub paragraphs (a) and (b).

12. YOUR - GENERAL OBLIGATIONS

12.1 You will ensure that you comply at all times with all laws and obligations, including licence conditions applicable to the Services and their use.

12.2 You may not resell or resupply the Services provided by Business Telecom.

12.3 (a) Where required, you must allow the installation and use of any tools or software that Business Telecom deems necessary to delivery Products or Services

in the Customer IT Environment.

12.3 (b) Installation and Programming of Equipment For Telecommunication or Data Services: You will assist Business Telecom to ensure that any equipment necessary for you to receive the Services and access our network is installed and programmed so that calls to destinations nominated by us from time to time are, as far as possible, carried by our preferred Services Network.

12.4 You will provide Business Telecom with all documentation, information and assistance reasonably required by us to supply Business Telecom Products or Services.

12.5 You will provide Business Telecom employees, our agents, or representatives

with access to:

- i. Customer premises and Customers' Users; and
- ii. any accounts used by the Customer (including login details and passwords), to the extent reasonably required by Business Telecom to supply the Products or Services

9.2 Termination of Services: Our obligations to provide the Services cease when your services have transferred to any Other Supplier. We will invoice you for the Services up to and including the date they are transferred to the Other Supplier and for all other charges you are liable for under the Agreement in accordance with Clause 4.

12.6 You will exercise all reasonable care and skill in performing the Customer duties and obligations under the Agreement and in all matters act in good faith towards us.

12.7 You will comply, at all times, with any reasonable directions provided by Business Telecom officers, employees, our agents or representatives from time to time, in relation to use of the Products or Services.

12.8 You will comply with any operational procedures and technical specifications specified in any product schedules, user guide or otherwise provided by Business Telecom or our third party suppliers.

12.9 You will ensure that all Customer officers, employees and representatives act professionally, and courteously, when engaging with our employees and representatives.

13. YOUR ASSISTANCE

13.1 Physical Security and Access: When involved in the provision of Products or Services that include access to the Customer's premises, facilities or other resources belonging to the Customer, Business Telecom will comply with the Customer's reasonable rules and procedures, which have been provided to Business Telecom in writing. These procedures may relate to security, workplace health and safety, and data security.

13.2 Data Security: When involved in the provision of Products or Services that include the management, maintenance, storage and transfer of Customer Data, Business Telecom agrees that it will:

- a. take reasonable actions to ensure Customer Data is secure, in line with the standard operating environment (SOE) of the Managed Environment.;

- b. notify the Customer if becoming aware of a breach of data security and will do all things reasonably necessary to remedy the breach; and
- c. keep and maintain records of all Products provided in accordance with good professional practice.

14. RELATIONSHIPS

14.1 By signing the Agreement, you are entering into a direct relationship with us. You are not entering into a relationship with your Current Supplier.

14.2 If you currently have a discount plan with a Carrier, it will cease to apply when you transfer your services to Business Telecom.

14.3 Business Telecom may assign or novate all or part of its rights and obligations under the Agreement to the nominated Carrier without your consent. You may not assign or novate all or part of your rights and obligations under this Agreement other than in accordance with clause 20 (Assignment)

14.4 For the purpose of novation, you agree to novate the Agreement to the nominated Carrier on receipt of a notice from either Business Telecom or the nominated Carrier, such novation to be on terms no less favourable than the terms of this Agreement, in existence immediately prior to the novation.

15. TERMINATION

15.1 **Termination:** Except in the case of Managed Services, either party may terminate this Agreement by giving 30 days written notice, unless you have agreed to a term agreement.

15.2 **Immediate Termination for Telecommunications or Data Services:** We

may terminate the Agreement immediately at any time by notice, if (a) you have breached the Agreement or our Acceptable Use Policy, or (b) a liquidator, receiver, receiver and manager, official manager, trustee, administrator or similar official of your business or association is appointed or you enter into any composition with your creditors or (c) payment is not received 30 days after the due date. Business Telecom will terminate, with or without notice, if it is to our opinion that your company is directly or indirectly involved in activations which may have disastrous effect to our internet service, affect the performance for other customers or how

the community may perceive Business Telecom. Activities may include: (a) Spamming. (b) Email bombing (c) Use of bulk emails to unsolicited recipients (d) Commercial advertising (e) Political or religious message which may be of offensive nature (f) Misrepresentation and abusive or offensive behaviour in online facilities including social networking sites and forums. (g) Unauthorised access to other Internet services.

15.3 **Term Contracts:** If we have agreed to provide a Service for a set term, then, apart from charges for call usage, the amount payable for the whole of that term is a debt owing to us at the time of entering into the Agreement for which we may bill you even if you cancel the Service or terminate the Agreement before the term ends.

15.4 **Removable Discount:** If we provide a Service at a discount on payment over

a set term and you cancel the Service or terminate the Agreement before that term ends, then you will be liable to pay the full undiscounted amount for the Service for the period prior to cancellation and termination. We will bill you for the amount of the discount allowed to you during the lapsed period on your next invoice.

15.5 **Early Termination:** Early Termination of Telecommunications or Data Services agreements will incur early termination fees, calculated as follows: the UNDISCOUNTED Monthly plan fee(s) for each voice and/or data service and/or equipment as detailed on the corresponding signed rate card(s), multiplied by the term remaining. You acknowledge that this amount is a genuine pre-estimate of the loss we are likely to suffer.

15.6 **Termination of Managed Services:** Further terms regarding termination of

the Managed Services Agreement, and associated termination charges, are defined in the Managed Services Product Terms.

16. NO TERMINATION OF RENTAL AGREEMENT: IF YOU TERMINATE THIS AGREEMENT UNDER CLAUSE 15, SUCH TERMINATION DOES NOT PERMIT OR RESULT IN THE TERMINATION OR CANCELLATION OF ANY OTHER RENTAL and/ or LEASE AGREEMENT.

17. INDEMNITY

Subject to the limitations of liability set out in clause 18, you indemnify Business Telecom and its Related Bodies Corporate and its third party suppliers against all losses, damages, expenses and costs (including reasonable legal costs) to the

extent arising from as a result of:

- a. any breach by the Customer of this Agreement of any Products or Services provided under the Agreement;
- b. any loss, destruction, theft or damage to any Hardware owned by Business Telecom that is under the possession or control of the Customer; or
- c. any grossly negligent act or omission of the Customer or any of its officers, employees, agents, contractors or representatives relating to this Agreement or any Products or Services provided under the Agreement;

provided that such indemnity is reduced proportionally to the extent that Business Telecom caused or contributed to the losses, expenses, damages, expenses or costs.

18. LIABILITY

18.1 No implied terms

- a. Business Telecom does not exclude or limit the application of any provision of any statute including the Competition and Consumer Act 2010 (Cth) where to do so would:
 - i. contravene that statute; or
 - ii. cause any part of this clause to be void.
- b. Except to the extent clause 18.1(a) applies, Business Telecom excludes all:
 - i. statutory liability;
 - ii. tortious liability (except to the extent that loss or damage is a consequence of Business Telecom's gross negligence in which event the aggregate amount claimed must not exceed the value of the Products and Services provided relating to that loss or damage); and
 - iii. conditions, warranties or guarantees implied by custom, the general law or statute,

arising out of, or relating to the Products and Services, any failure to supply or delay in supplying the Products, Services or this Agreement.

- c. Where legislation implies into this Agreement any condition, warranty or guarantee that cannot be excluded, then to the extent permitted by law, Business Telecom's liability for any breach of such condition, warranty or guarantee is limited, at Business Telecom's option, to refunding the price of the goods or services in respect of which the breach occurred or to providing, replacing or repairing those goods or providing those services again (except for goods or services of a kind ordinarily acquired for personal, domestic or household use or consumption).

18.2 No Consequential Loss

Neither party is liable to the other party for any Consequential Loss, however caused, in connection with or related to this Agreement or in respect of the Products and Services.

18.3 Limitation of liability

- a. Subject to clause 18.3(b), the total aggregate liability of each Party arising under or in connection with this Agreement is limited to the charges paid by the Customer to Business Telecom in the 12-month period prior to the date of the relevant claim.
- b. The limitation of liability in clause 18.3(a) does not apply to any liability for:
 - i. any payment due under this Agreement;
 - ii. any personal injury or death in relation to the supply of the Products and Services;
 - iii. any damage to the Customer's property resulting from the supply of the Products, but Business Telecom limits its liability to its choice of repairing or replacing the property or paying the cost of repairing or replacing it;
 - iv. any damage to Hardware owned by Business Telecom that is under the possession or control of the Customer; or
 - v. any breach of clause 12 (Your General Obligations) or clause 19 (Confidential Property and Intellectual Property).

18.4 For the avoidance of doubt, Business Telecom has no liability under any Rental Agreement.

19. CONFIDENTIAL INFORMATION AND INTELLECTUAL PROPERTY

19.1 Your Obligations

- a. keep Business Telecom's Confidential Information confidential;
- b. use Business Telecom's Confidential Information only for the purposes of this Agreement; and
- c. disclose Business Telecom's Confidential Information only to those of your employees or agents who have a need to know and who have agreed to keep it confidential.

19.2 Business Telecom's Obligations

We must:

- a. keep the Customer's Confidential Information confidential;
- b. use the Customer's Confidential Information only as permitted by or for the purposes of this Agreement, to comply with obligations imposed on Business Telecom or its Related Bodies Corporate by law and to comply with directions and orders issued by a Regulator; and
- c. disclose the Customer's Confidential Information only:
 - i. to those of its employees, agents or third party suppliers and those of its Related Bodies Corporate employees, agents or suppliers, who have a need to know and who have agreed to keep it confidential; and
 - ii. as required to facilitate use of the Customer's Confidential Information as permitted under clause 19.2(b) or as otherwise specified in this Agreement.

19.3 Permitted Disclosure

The obligations of confidentiality in clauses 19.1 and clause 19.2 do not apply to Confidential Information:

- a. that is in the public domain otherwise than as a result of a breach of this Agreement or other obligation of confidence;
- b. that is already known by, or rightfully received, or independently developed, by the recipient free of any obligation of confidence; or
- c. where such Confidential Information is disclosed in compliance with an applicable law or a court order, provided that, prior to disclosing any such Confidential Information, the party making the disclosure has, where practicable, given the other party reasonable advance notice of such law or order and an opportunity to preclude or limit such production. This clause 19.3(c) will not prevent Business Telecom from disclosing any information the disclosure of which is required by the Listing Rules of the Australian Securities Exchange, and we will not be required to give you advance notice of such disclosure or an opportunity to preclude or limit such production.

19.4 Intellectual Property Ownership and Use

The Customer will obtain no right, title or interest in or to the Intellectual Property. Where you are permitted by Business Telecom (i.e. with its prior written consent) to use any part of the Intellectual Property, it must only use such Intellectual Property as follows:

- a. the Customer must not make any copy of the Intellectual Property and must not alter the whole or any part thereof in any way, other than by the entry of data;
- b. the Customer must not allow any other person to be in possession of a copy of the whole or any part of the Intellectual Property; and
- c. the Customer must maintain accurate records as to the whereabouts of

all copies of the whole or any part of the Intellectual Property provided to you, and to all persons who have access to it, and must make such records available to Business Telecom at any reasonable time upon request.

20. PRIVACY

For the purposes of this clause 20 Agreement refers to any agreement between

Business Telecom and the Customer for the provision of any Business Telecom product or service, including Managed Services.

- a. Each Party must comply with all Privacy Laws.
- b. You acknowledge that you have read and understood Business Telecom's Privacy Policy and agrees to be bound by its terms.

- i. purposes relating to the supply of the Products and Services to the Customer; and
 - ii. otherwise in accordance with Business Telecom's Privacy Policy.
- d. If Business Telecom, in providing the Products and Services under this Agreement, uses or discloses the Customer's or the Customer Users' Personal Information, Business Telecom will:
- i. ensure that Personal Information is protected against loss and against unauthorised access, use, modification, disclosure or other misuse;
 - ii. not use Personal Information other than for the purposes directly related to providing the Products or Services;
 - iii. not disclose Personal Information without the prior written consent of the Customer;
 - iv. ensure that access to Personal Information is restricted to those persons who require access in order to perform their
- duties under this Agreement;
- v. fully and promptly cooperate with any reasonable demands or inquiries made by the Customer or the Office of the Australian Information Commissioner (OAIC) in relation to handling of Personal Information by Business Telecom or breaches or suspected breaches (including data breaches) of the Privacy Law, including but not limited to such demands
- as are made to enable the Customer to respond to any applications or privacy complaints which require access to, or amendment of, a document containing a person's Personal

- Information;
- vi. take such steps as are necessary to reduce any potential harm to individuals caused by a suspected breach or eligible data breach or any other breach of the Privacy Law;
 - vii. comply with any reasonable direction of the Customer to give effect to any recommendations, requirements, rectification and preventative measures required by the Customer or the OAIC in connection with any acts or practices of Business Telecom that the Customer or the OAIC considers to be an actual or suspected breach of, or an eligible data breach under, the Privacy Law;
 - viii. ensure that the Customer's prior written consent is obtained prior to any communications being made or issued by Business Telecom to third parties (including any affected individuals or the OAIC) in respect of any actual or suspected breach or eligible data breach of the Privacy Law; and
 - ix. if requested by the Customer, promptly return or destroy any record, document or file which contains Personal Information in accordance with the Customer's instructions upon expiry or termination of this Agreement

21. FORCE MAJEURE

- a. We will not be responsible for any loss or damage arising from circumstances beyond our control.
- b. The Party unable to perform its obligations must:
 - i. notify the other Party promptly, providing reasonable details of the Force Majeure Event and, so far is known, the probable extent to which the affected Party will be unable to perform or be delayed in performing its obligation; and
 - ii. use its best efforts to resume performance in accordance with this Agreement as soon as possible.
- c. By providing the Customer's and Customer Users' Personal Information to Business Telecom, the you acknowledge and consent to the collection, use, storage and disclosure of the Customer's and the Customer's Users' Personal Information for:



BUSINESS TELECOM GENERAL TERMS AND CONDITIONS

- c. If any Force Majeure Event continues for more than six (6) months then this Agreement may be terminated immediately by either Party giving notice to the other Party.

22. ASSIGNMENT

22.1 You will not assign charge or otherwise deal with your rights under this Agreement except with our prior written consent.

22.2 We may assign the Agreement without requiring your consent.

23. DUE DILIGENCE

23.1 You (a) acknowledge that you enter into the Agreement entirely as a result of your own enquiries and that you do not rely on any statement, representation or promise by us or on our behalf not expressly set out in the Agreement and these terms; and (b) you accordingly release us and each of our officers, agents and advisers from all claims and demands of any kind (including negligence) arising from the relationship of the parties concerning this Agreement before it was signed, and from the negotiations leading to it.

24. REMEDY

24.1 The failure by either party to exercise any right or remedy under Agreement in a timely manner, does not constitute acceptance of the matter which gave rise to the right or remedy, nor that party's waiver of such right or remedy.

24.2 If a Service is cancelled, suspended or disconnected, you remain liable for any liabilities incurred before the cancellation, suspension or disconnection.

25. GENERAL INFORMATION

25.1 This Agreement is governed by the laws of New South Wales.

25.2 We may give to and receive from Other Suppliers information about your account including particulars of calls and call charges.

25.3 The Agreement contains the whole understanding of the parties to the exclusion of any prior agreement or understanding of any kind relating to the Services.

25.4 The Customer may not transfer legal responsibility for a Service without our written consent.

25.5 We may vary or cancel the Agreement in accordance with the Telecommunications Act 1997 (Cth).

25.6 If any term (or part of a term) in Our Customer Terms is void or unenforceable, that term (or part) is taken to be removed from Our Customer

DIRECT DEBIT REQUEST SERVICE AGREEMENT

Definitions

account means the account held at your financial institution from which we are authorised to arrange for funds to be debited.

agreement means this Direct Debit Request Service Agreement between you and us.

Business day, means a day other than a Saturday or a Sunday or a public holiday listed throughout Australia.

business day means a day other than a Saturday or a Sunday or a public holiday listed throughout Australia.

debit day means the day that payment by you to us is due.

debit payment means a particular transaction where a debit is made.

direct debit request means the Direct Debit Request between us and you.

funds means any amount held on behalf of you by your financial institution from which Business Telecom may debit amounts.

payment service means the provision of a payment options facility through Business Telecom via its internet sites, by telephone or mail or its agents.

us or we means BUSINESS TELECOM AUSTRALIA GROUP PTY LTD you have authorised by *signing a direct debit request*.

you means the customer who signed the *direct debit request*.

your financial institution is the financial institution where you hold the account that you have authorised us to arrange to debit.

1. Debiting your account

1.1 By signing a direct debit request, you have authorised us to arrange for funds to be debited from your account. You should refer to the direct debit request and this agreement for the terms of the arrangement between us and you.

1.2 We will only arrange for funds to be debited from your account as authorised in the direct debit request.

1.3 If the debit day falls on a day that is not a business day, we may direct your financial institution to debit your account on the following business day. If you are unsure about which day your account has or will be debited, you should contact us.

2. Changes by us

2.1 If you wish to change the arrangements under a direct debit request, you must notify us in writing at least seven (7) days before the change is to be effective.

2.2 If you wish to stop or defer a debit payment, you must notify us in writing at least seven (7) days before the next debit day. This notice should be given to us in the first instance.

3. Your obligations

3.1 It is your responsibility to ensure that:

(a) to ensure the DDR is signed in terms of account signing authority (eg. joint accounts);

(b) to ensure Business Telecom is advised if your account is transferred or closed;

(c) to arrange a suitable alternative payment arrangement if the DDR is cancelled;

(d) there are sufficient clear funds available in your account to allow a debit payment to be made in accordance with the direct debit request.

3.2 If there are insufficient clear funds in your account to meet a debit payment:

(a) you may be charged a fee and/or interest by your financial institution;

(b) you may also incur fees or charges imposed or incurred by us; and

(c) you must arrange for the debit payment to be made by another method or arrange for sufficient clear funds to be in your account by an agreed time so that we can process the debit payment.

3.3 You should check your account statement to verify that the amounts debited from your account are correct.

3.4 If **Business Telecom** is liable to pay goods and services tax ("GST") on a supply made in connection with this agreement, then you agree to pay Business Telecom on demand an amount equal to the consideration payable for the supply multiplied by the prevailing GST rate.

4. Cancellation

4.1 You may cancel your authority for us to debit your account at any time by giving us seven (7) days notice in writing using the Direct Debit Cancellation Request Form before the next debit day. Please email support@businesstelecom.com.au your request. Notice should be given to us in the first instance.

4.2 Business Telecom can decide at its discretion to cancel this DDR should the dishonour history warrant.

4.3 Your Biller can cancel this DDR at any time, and we will advise you if this occurs.

5. Dispute

5.1 If you believe that there has been an error in debiting your account, you should notify us directly on 1300 721 100 and confirm that notice in writing with us as soon as possible so that we can resolve your query more quickly.

5.2 If we conclude as a result of our investigations that your account has been incorrectly debited, we will respond to your query by passing an adjustment to your account (inclusive of any interest / charges accrued as a result of the incorrect amount being debited) accordingly. We will also notify you in writing of the amount by which your account has been adjusted.

5.3 If we conclude as a result of our investigations that your account has not been incorrectly debited, we will respond to your query by providing you with reasons and any evidence for this finding.

5.4 Any queries you may have about an error made in debiting your account should be directed to us in the first instance so that we can attempt to resolve the matter between us and you. If we cannot resolve the matter, you can refer it to your financial institution.

6. Accounts

You should check: (a) with your financial institution whether direct debiting is available from your account as direct debiting is not available on all accounts offered by financial institutions.

(b) your account details which you have provided to us are correct by checking them against a recent account statement; and

(c) with your financial institution before completing the direct debit request if you have any queries about how to complete the direct debit request.

7. Confidentiality

7.1 We will keep any information (including your account details) in your direct debit request confidential. We will make reasonable efforts to keep any such information that we have about you secure and to ensure that any of our employees or agents who have access to information about you do not make any unauthorised use, modification, reproduction or disclosure of that information.

7.2 We will only disclose information that we have about you:

(a) to the extent specifically required by law; or

(b) for the purposes of this agreement (including disclosing information in connection with any query or claim).

7.3 We will collect, use and disclose any personal information in accordance with the privacy policy which is available upon request from you to Business Telecom.

8. Notice

8.1 If you wish to notify us in writing about anything relating to this agreement, you should write to:

Business Telecom Australia
Level 2, 460 Church Street
North Parramatta, NSW 2151

8.2 We will notify you by sending a notice in the ordinary post to the address you have given us in the direct debit request.

8.3 Any notice will be deemed to have been received two business days after it is posted.

9. Indemnity

By signing the direct debit request, you hereby indemnify Business Telecom and acknowledge that we will not be liable for any loss or damage, whether direct, indirect or consequential (including legal fees and other costs incurred) arising out of:

(a) loss of funds, delay and/or unavailability of payment services by Business Telecom;

(b) the inaccuracy, inadequacy or incompleteness of the information contained on the Business Telecom internet site or any of its printed material;

(c) a breach of this agreement by you including any act, neglect or default by you

(d) any successful claim by any third party against Business Telecom in respect of any matter arising from the operation, use, transfer of data or monies to and from Business Telecom by you; or your conduct in general.

10. General

This agreement is governed by Australian law. You may not assign your rights or obligations under this agreement without the written agreement of Business Telecom. If any part of this agreement is unenforceable, the remainder will not be affected.

11. Contact Information

You can contact Business Telecom through the following channels:

Mail: Business Telecom Australia
Level 2, 460 Church Street
North Parramatta, NSW 2151
Email: support@businesstelecom.com.au
Telephone: 1300 72 11 00