



TERMS AND CONDITIONS

Terms and Conditions

Certain legislation in Australia may provide consumer guarantees or impose obligations on 13VoIP Pty Ltd, ABN: 65 155 308 642, which cannot be excluded, restricted or modified, or only to a limited extent. These Terms and Conditions are subject to such legislation, including without limitation the Australian Consumer Law.

Last Updated: 20 Nov 2024

1. Definitions

In these Terms & Conditions of Sale the following expressions shall have the meanings here ascribed to them unless the context requires otherwise:

'Company' - 13VoIP Pty Ltd or 13VoIP as applicable. The entity that provides the Service or Goods.

'Customer' - the entity who accepts a quotation of the Company for the sale of the Goods or whose order for the Goods is accepted by the Company.

'Service' - means any product or service provided the Company, including but not limited to the 13VoIP range of products, as well as any other services, goods, hardware or software provided by the Company.

'Goods' - the goods (including any instalment of the goods or any parts for them) which the Company is to supply in accordance with these Conditions.

'Conditions' - the standard terms and conditions of sale set out in this document and includes any special terms and conditions agreed in writing between the Company and the Customer.

'Contract' - the contract for the purchase and sale of the Goods.

'Contract Term' - the service selection on the order form.

'Date of Commencement' - means the date on which the service is installed, commences operation and is billed from.

2. Terms of Agreement

2.1 This Agreement applies to the provision of Services from the Date of Commencement and continues until either the contract term expires or we terminate the Agreement in accordance with Clause 8.

2.2 Unless otherwise specified in writing and signed by the Company, the Customer agrees to pay for the agreed Services for the entire Contract Term specified for each service from the Date of Commencement.

3. Our Obligations

3.1 In accordance with the terms and conditions of this Agreement, we will take all reasonable steps to provide you with the agreed Services and to ensure continuity of the Services. However, there is no guarantee that the Services will be either uninterrupted or error-free.

3.2 We undertake to provide a reasonable level of technical support in instances where Services are interrupted or delayed (See Clause 6).

3.3 We do not guarantee that all data will reach its intended destination (including electronic mail) inside or outside our network.

4. Your Obligations

4.1 You are responsible for all carrier charges (e.g. Telephone) associated with connecting to our Services.

4.2 You are responsible for obtaining, providing and maintaining all telephone access lines,



computer equipment and any access device(s) necessary to access the Services.

4.3 You are responsible for any collection fees (including legal fees and any other costs) incurred by us as a result of the collection of outstanding monies owed by you to us under this Agreement.

4.4 You are responsible for any consultancy charges incurred in connecting the Company Services to your network.

4.5 You agree that you will:

4.5.1 Not interfere with the normal operation of the Services or any equipment used in the provisioning of the Services.

4.5.2 Allow us or any third-party supplier safe, sufficient, and timely access to any premises as required in connection with the provision, maintenance, repair, de-commissioning and removal of the Services or any equipment used in the provision of the Services; and

4.5.3 Permit us or any third-party supplier to modify any equipment used in the provision of the Services where we consider such modifications to be necessary.

4.5.4 Abide by and accept all terms and conditions contained in this Agreement and in our Acceptable Usage Policy document.

4.5.5 Allow us to use the customers details in future marketing activities.

5. Third Party Supplier Provisions

The following provisions apply where the Services include the provision of goods or services acquired from a third-party supplier:

5.1 Services are provided on an 'as-is' basis and we cannot guarantee the provision of the Services to you to the extent that the Services are reliant upon the provision of goods or services by a third-party supplier.

5.2 You agree that we may terminate (or suspend in accordance with Clause 7.3) the provision of Services to you if a third-party supplier ceases to provide the relevant goods or services to us for any reason. Alternatively, we may in our discretion elect to obtain the relevant goods or services from another third-party supplier and continue to provide the Services to you. We may also increase the Charges to include any additional amounts that we are required to pay to the new third party supplier. We will notify you of additional charges in advance, and in writing.

6. Technical Support

6.1 We undertake to provide free technical support via online chat or electronic mail for the installation of your modem / router to the Company network - during the period where your Services are initially connected (the 'Instalment Period') or when additional Services are purchased from us. The maximum Instalment Period will be no longer than two weeks.

6.2 Technical support is available outside the Instalment Period. We will only provide free technical support for faults originating within our system. Technical supports faults outside our system, specifically faults relating to your software or hardware, will be charged at \$158 per hour inc GST with a minimum 1-hour charge and additional time billed in 30-minute increments.

6.3 On Site Technical support is available but charged at \$158 per hour inc GST with a minimum 2 hours charge and additional time billed in 30-minute increments.

6.4 Technical support is available Monday to Friday 24 hours a day for this service.

7. Suspension of Services

7.1 We reserve the right to immediately and without notice and without prejudice to our rights of termination under Clause 8, suspend your access to Services if we:



7.1.1 Reasonably consider that you have failed to comply with any provision of this Agreement; or

7.1.2 Suspect that you have breached our Acceptable Usage Policy. Please note that a copy of our

Acceptable Usage Policy document is available at 13voip.au/aup Please note that this document changes frequently and it is up to you to ensure that you are aware of the contents.

7.2 If we suspend your access to Services under Clause 8.1, we may reactivate your access to Services if we are subsequently satisfied that you are not in breach of any provision of this Agreement.

7.3 We may from time to time and without notice, suspend your access to Services due to a technical failure (including any failure caused by a third-party supplier ceasing to provide us with goods or services), or where modification or maintenance is being carried out in relation to the Services. We will use all reasonable endeavours to end any such suspension of Services as soon as practicable.

7.4 If the Service is suspended due to unpaid invoices, the Customer will agree to pay the agreed monthly access fees for the Service while it is suspended.

7.5 We do not accept any liability for expenses or damages incurred during the period where Services are suspended under Clause 7.1 or Clause 7.3.

8. Termination

8.1 We may terminate this Agreement immediately by notice in writing where:

8.1.1 We have suspended your access to Services under Clause 7.1 and we have not reactivated your access to Services under Clause 7.2 within seven (7) days of suspension;

8.1.2 A third party supplier ceases to provide goods or services to us that are necessary for the continued provision of the Services;

8.1.3 You are in breach of any term of this Agreement and this breach is not remedied within seven (7) days of us notifying you;

8.1.4 We believe you are about to or may become or are in jeopardy of becoming subject to any form of insolvency administration;

8.1.5 If you, being a partnership, dissolve, threaten or resolve to dissolve or are in jeopardy of dissolving;

8.1.6 If you, being a natural person, die; or

8.1.7 You cease or threaten to cease conducting business in the normal manner.

8.2 In the event that this Agreement is terminated, we claim the right to:

8.2.1 Retain all monies paid for Services;

8.2.2 Charge a reasonable sum for work performed in respect of which no sum has been charged or monies paid;

8.2.3 Charge a reasonable sum for the goods associated with this agreement;

8.2.4 Be discharged from any further obligations under this Agreement; and

8.2.5 Pursue any additional or alternative remedies provided by law.

8.3 Upon the expiration or termination of this Agreement for any reason, the provisions of Clauses 10, 11 and 13 shall remain in force in accordance with their respective terms.

8.4 30 days' notice be provided in writing for the termination of the contract by the customer



9. Charges

9.1 All Charges, including set-up and access fees, are payable in advance and must be paid on or before the first day of each billing period.

9.2 Unless otherwise specified by the parties in the individual services agreement, the billing period will be monthly.

9.3 Invoices of Charges for each forthcoming billing period will be delivered via electronic mail fourteen (14) days prior to the commencement of the billing period.

9.4 An invoice presented by us shall be deemed to be a correct statement of all Charges, unless disputed by you, in writing, prior to the commencement of the forthcoming billing period.

9.5 Where Charges are not paid on or before the first day of a billing period, an overdue notice will be issued. If payments are not received by the date specified on the overdue notice, we may:

9.5.1 Suspend your access to the Services without notice until all outstanding monies are paid in full;

9.5.2 Charge you an additional fee for any subsequent re-connection to the Services;

9.5.3 Require you to pay us interest on any monies owing to us at a rate equivalent to the prime rate charged for bank overdrafts by our current bankers at that time. Interest will be calculated from the original due date until all outstanding monies have been paid in full; and/or

9.5.4 Terminate this Agreement (as set out in Clause 8.1.3);

9.6 If we terminate this Agreement under Clause 9.5.4:

9.6.1 We will be entitled to remove any of our equipment used by you in connection with the Services, and you must allow us to enter any

premises in which our equipment is stored in order to facilitate this removal;

9.6.2 Where you operate a business in which the Services we sell to you are sold on to third parties, you automatically hereby assign or transfer to us your title to any business information or data owned and used by you in connection with the Services (including without limitation your customer lists and customer database), effective as of the date of termination of this Agreement; and

9.6.3 You consent to us entering the premises on which the items referred to in Clause 9.6.2 are stored or may be accessed or located, in order to enforce our rights to possess, use and sell those items;

9.6.4 We will re-assign or re-transfer to you any items that remain after all amounts owed to us by you under this Agreement have been paid by you or satisfied by the sale or use of the items referred to in Clauses 9.6.2-9.6.3.

9.7 Service suspensions will be promptly removed on receipt of full payment of all outstanding Charges owed to us under this Agreement.

9.8 The amounts payable by you to us for, or in connection with, the Services under this Agreement will include any GST payable in connection with the provision of the Services. We will provide you with invoices in the form of tax invoices.

9.9 If the rate of GST increases, the amounts payable by you to us for, or in connection with, the Services under this Agreement shall be increased by an amount to reflect the increased GST amount.

9.10 Any Charges incurred by us during the processing of a payment authorised by you, will be payable by you. This includes any penalty fees for a non-successful payment attempt. We may, at our own discretion, choose to waive this fee.



9.10.1 Payments made via Credit Card will incur a processing fee of either AU\$0.33 + 1.87% of transaction, or the amount shown to you when authorising the payment.

9.10.2 Payments made via Direct Debit will incur a processing fee of either AU\$0.88, or the amount shown to you when authorising the payment.

9.10.3 Payments made via Direct Debit will incur a dishonour fee of either AU\$5.50, or the amount shown to you when authorising the payment.

9.10.4 Payments made via BPAY® will incur a processing fee of either AU\$1.98, or the amount shown to you when authorising the payment.

10. Indemnity

10.1 You release and indemnify us, our agents and third party suppliers from all liability arising from the provision or cancellation of the Services or any goods or services provided by our third party suppliers. This indemnity includes but is not limited to an indemnity against all actions, claims and demands including the cost of defending in or settling any action, claim or demand, which may be instituted against us, as well as all expenses, losses, damages and costs that we may sustain or incur as a result, whether directly or indirectly of:

10.2 Any breach of this Agreement by you, including but not limited to a breach in respect of which we elect to terminate this Agreement;

10.3 The negligence of you, your agent, your employee or sub-contractor or of any other person for whose acts or omissions you are liable; and

10.4 Any loss of or damage to any property, or injury to or death of any person, caused by any negligent act or omission or wilful misconduct of you, your agent, your employee or sub-contractor.

11. Our liability

11.1 We make no express warranties to you except those expressly set out in this Agreement.

11.2 We do not exclude or limit the application of any provision of any statute, including the Competition and Consumer Act 2010 and Fair Trading Act 1992 (ACT), where to do so would contravene that statute or cause any part of Clause 14 to be void.

11.3 We exclude:

11.3.1 From this Agreement all conditions, warranties and terms implied by statute or general law except any implied condition or warranty the exclusion of which would contravene any statute or cause this clause to be void;

11.3.2 All liability to you in negligence for acts or omissions of us or our employees, agents or sub-contractors arising out of and in connection with this Agreement.

11.4 Our liability to you for breach of any express provision of this Agreement is limited to supplying, replacing or repairing the goods or re-supplying the Services in respect of which the breach occurred. Alternatively, we will refund any money paid by you for the goods or services in respect of which the breach occurred.

12. Changes to the Services, including Cancellation

12.1 All requests to change your existing Services, including upgrading, downgrading or cancellation, must be made in writing and will be subject to your Contract Term.

12.2 Unless otherwise specified in accordance with Clause 2.2, you undertake to pay for the agreed Services for the entire Contract Term. If you cancel access to Services before the conclusion of your contract period, you are still liable to pay the full cost of the agreed Services until the Contract Term concludes.



12.3 All requests for the relocation of Services during your Contract Term, to an alternate Service Location Address must be made in writing. A one-off relocation fee will be charged for each Service that can be successfully relocated. The cost for relocating a Service will be quoted once the new Service Location has been determined.

12.4 Where the new Service Location Address isn't capable of relocation the current Service, the Customer agrees to pay out the remaining Contract Term or agrees to an alternate Service supplied by the Company. The new Service recommended by the Company may require additional infrastructure and/or an alternate technology to achieve the required performance of the existing Service. The Customer

acknowledges that there may be a change in the monthly charge for the recommended Service.

12.5 If no Service can be supplied at the new Service Location Address that is comparable to the existing Service, then the Customer agrees to pay out the remaining Contract Term.

13. Our Refund Policy

This clause only applies to accounts which have been active longer than the initial contract period.

13.1 Where you voluntarily cancel one or more Services, you are not entitled to any refund, even where you have paid for Services for a period beyond the current billing period.

13.2 If we terminate a Service under Clause 8, the provision of the Service to you will cease in accordance with the provisions of that Clause. You will not be entitled to any refund.

13.3 If you validly terminate this Agreement as a result of our breach, you are entitled to a refund of the unused portion of your account. We reserve the right to deduct an administration fee equivalent to one month's Services charges from this amount.

14. Assignment

14.1 Your rights and obligations under this Agreement shall not be assigned, sold, delegated, alienated, transferred or otherwise disposed of without our consent.

14.2 The Company will inform you, in writing, of its intention to assign its rights and obligations under this Agreement at least twenty-eight days prior to such an assignment occurring.

15. Force Majeure

15.1 No party is liable for any failure to perform or delay in performing its obligations under this Agreement if failure or delay is due to anything beyond that party's reasonable control. Where the failure or delay exceeds sixty (60) consecutive days, the other party may terminate this Agreement with immediate effect by notifying the other party in writing. This clause does not apply to any obligation to pay money.

16. Severability

16.1 The parties to this Agreement agree that if any provisions of this Agreement shall be determined to be void by any Court of competent jurisdiction such determination shall not affect any other provision of this Agreement and all other provisions shall remain in full force and effect.

17. Title

17.1 Title of the goods passes to the customer at the time payment for the goods is made in full.

18. Waivers

18.1 A waiver of a provision of this Agreement or a right or remedy arising under this Agreement, including this clause, must be in writing and signed by the party granting the waiver. Unless otherwise specified a waiver is valid for 7 business days.

18.2 A waiver is only effective in the specific instance and for the specific purpose for which it is given.



18.3 A single or partial exercise of a right does not preclude a further exercise of that right or the exercise of another right.

19. Amendments to these Terms and Conditions

19.1 We reserve the right to amend these terms and conditions from time to time. Such amendments will be emailed as well as posted on our website and take effect 28 days after the day the amendments are posted. Customers are permitted to cease using our services within this 28-day notice period without penalty. Your continued use of services following such notification will be taken as an agreement to be bound by the terms and conditions as amended.

20. Entire Agreement

20.1 This Agreement contains the whole understanding between the Company and You to the exclusion of any prior or collateral Agreement or understanding of any kind relating to the Services.

20.2 Clause 19.1 does not apply to an individual service agreement made by the parties.