
GTELECOM GENERAL TERMS

1. Structure of Agreement Documents and interaction

This Agreement comprises:

- (a) any Orders;
- (b) these General Terms;
- (c) any applicable Critical Information Summary or other Product Schedule;
- (d) any applicable Service Levels;
- (e) any other document incorporated by reference by this Agreement or by the Parties' written agreement from time to time.

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

2. Term

- (a) This Agreement starts on the Service Start Date and continues for the Minimum Term. At the expiry of the Minimum Term the Agreement will continue until terminated by either Party by providing thirty (30) days' written notice.
- (b) If no Minimum Term is specified, the Agreement will continue until terminated by either Party by providing thirty (30) days' written notice.

3. Products

3.1 Supply by Gtelecom

- (a) Gtelecom offers the Products specified in an Order.
- (b) In consideration for payment of the Charges, Gtelecom will provide the Customer with the Products specified in any Order.
- (c) Gtelecom will supply the Products in a professional manner.

3.2 Installation and delivery

- (a) Gtelecom may, in its absolute discretion:
Customer has to pay upfront charges for the Products and services.
- (b) Gtelecom will advise the Customer of the date Gtelecom expects to install and deliver the Products and will use reasonable efforts to meet that target. Any service installation or delivery date is a target only, and Gtelecom will not be responsible for any failure to meet that target or for any loss or damage to the Customer or anyone incurred as a result of the failure to meet the target.

3.3 Use of Products

- (a) The Customer must only use the Products in accordance with the terms specified in this Agreement and any applicable law.
- (b) The Customer accepts full risk and responsibility for all use of the Products and is responsible for all Charges payable in relation to the use of the Products, whether or not such use was authorised by the Customer.
- (c) Where applicable, the Products are only provided for the number of permitted users specified in an Order. The Customer must notify Gtelecom if the number of permitted users increases, as this may affect the Charges payable by the Customer.

3.4 Third Party Providers

If the Products involve Gtelecom sourcing a license, goods or service from a Third Party Provider:

- (a) third Party terms & conditions (**Third Party Terms**) may apply. The Customer agrees to any Third Party Terms applicable to any Third Party Provider license, goods or service that is used in delivering the Products, and Gtelecom will not be liable for any loss or damage suffered by the Customer in connection with such Third Party Terms; and
- (b) any request by the Customer for support in relation to any license, goods or service sourced by Gtelecom from a Third Party Provider must be directed by the Customer to Gtelecom, including for support regarding performance, functionality, a fault, a defect or for any request for a license upgrade. In such case, Gtelecom will engage with the Third Party Provider and provide any direction relating to the supply of support or upgrade.

3.5 Additional Products

If the Customer requires additional Products, a new order must be completed and signed by the Parties.

3.6 Variations to Products

If the Customer requests a variation of any Product it may provide a notice describing the change in character or content requested. Upon receiving such notice, Gtelecom (acting reasonably) must notify the Customer of the terms under which it will agree to any variation, or if it rejects the variation why it is not accepted.

4. Customer's Obligations

4.1 General Obligations

The Customer must:

- (a) not use the Products:
 - (i) for any improper or unlawful purpose; or
 - (ii) in any way which damages or interferes with the network or infrastructure of Gtelecom or any of its Suppliers or with the supply of any service to any other customer of Gtelecom;
- (b) provide Gtelecom with all documentation, information and assistance reasonably required by Gtelecom to supply the Products;
- (c) provide Gtelecom with access to:
 - (i) the Customer's premises and the Customer's Users; and
 - (ii) any accounts used by the Customer (including login details and passwords),to the extent reasonably required by Gtelecom to supply the Products;
- (d) exercise all reasonable care and skill in performing its duties and obligations under this Agreement and in all matters act in good faith towards Gtelecom;
- (e) comply, and take reasonable steps to ensure that all of the Customer's Users comply, at all times with any reasonable directions given by Gtelecom from time to time in relation to the use of the Products;
- (f) comply with any operational procedures and technical specifications specified in any Product Schedule, user guide or otherwise provided by Gtelecom or its Supplier;

4.2 Provision of Information

The Customer agrees to provide Gtelecom with information relating to the Customer or its Business in connection with the supply of the Products, as reasonably required by Gtelecom from time to time. Information that may be required includes:

- (a) Customer Details;
- (b) information for credit management purposes;
- (c) information to assist Gtelecom or its Supplier in complying with its regulatory obligations; and
- (d) other information reasonably requested by Gtelecom relevant to the interests of maintaining the existing relationship between Gtelecom and the Customer.

4.3 Laws and Regulations

The Customer must:

- (a) comply with all laws, regulations, codes and standards applicable to the supply of the Products; and
- (b) provide any information, assistance and co-operation reasonably requested by Gtelecom to enable Gtelecom to comply with any laws, regulations, codes and standards applicable to the Products.

5. Payment Terms and Fee Review

5.1 Invoice issued to the Customer

- (a) At the commencement of each calendar month, Gtelecom will issue an invoice to the Customer:
 - (i) in advance, for the Charges for the Products to be supplied in that calendar month; and
 - (ii) for Charges for the Products supplied to the Customer during the previous month or a previous month where the Products have not previously been charged, or if an incorrect fee had previously been rendered.
- (b) The Customer acknowledges that Gtelecom's records of Products supplied are prima facie evidence that the Products were supplied.
- (c) Where the amount of an invoice issued under clause 7.1 is less than the Minimum Commitment, the Customer will pay an amount (the **True Up Amount**) equal to the difference between: (i) the Minimum Commitment; and (ii) the Charges specified in the invoice issued under clause 7.1. Gtelecom will invoice the Customer for the True Up Amount.

5.2 Due Date

- (a) The Customer must pay Gtelecom the invoiced Charges, within Thirteen (13) days from invoice date (the **Payment Period**). The payment must be by electronic funds transfer to a bank account nominated by Gtelecom, in cleared funds, without set-off or deduction of any taxes, levies, imports, duties, charges (including intermediary bank charges), fees (including merchant fees) or withholdings of any nature.
- (b) If the Customer does not pay all of the invoiced Charges within the Payment Period, then without affecting any other rights under this Agreement, Gtelecom may:
 - (i) Late payment charges applies and the services will be suspended after due date.

5.3 Invoice Errors

Gtelecom may re-issue any invoice at any time if any error is later discovered

5.4 Taxes

If any Taxes are payable by the Customer in connection with the Products supplied under this Agreement, the Charges otherwise to be paid is increased by the amount of the Taxes payable, and that amount must be paid in the same manner and at the same time as the payment for Products.

6. Confidential Information and Intellectual Property

6.1 Customer's Obligations

The Customer must:

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

6.2 Gtelecom's Obligations

Gtelecom 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 Gtelecom 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:
to those of its employees, agents or 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

7. Privacy

- (a) Each Party must comply with all Privacy Laws.
- (b) The Customer acknowledges that it/he/she has read and understood Gtelecom's Privacy Policy and agrees to be bound by its terms.
- (c) By providing the Customer's and Customer Users' Personal Information to Gtelecom, the Customer acknowledges and consents to the collection, use, storage and disclosure of the Customer's and the Customer's Users' Personal Information for:
 - (i) purposes relating to the supply of the Products to the Customer; and
 - (ii) otherwise in accordance with Gtelecom's Privacy Policy.
- (d) If Gtelecom, in providing the Products under this Agreement, uses or discloses the Customer's or the Customer Users' Personal Information, Gtelecom 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;
 - (i) not disclose Personal Information without the prior written consent of the Customer;

- (ii) ensure that access to Personal Information is restricted to those persons who require access in order to perform their duties under this Agreement;
- (iii) (iv) 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;
- (vi) ensure that the Customer's prior written consent is obtained prior to any communications being made or issued by Gtelecom 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
- (vii) 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.

8. Security

8.1 Physical Security and Access

When involved in the provision of Products that include access to the Customer's premises, facilities or other resources belonging to the Customer, Gtelecom will comply with the Customer's reasonable rules, directions and procedures, including those relating to security or workplace health and safety and data security.

8.2 Data Security

When involved in the provision of Products that include the management, maintenance, storage and transfer of Customer Data, Gtelecom agrees that it will:

- (a) will do all things reasonably necessary to ensure the Customer Data is secure;
- (b) notify the Customer if there has been 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.

9. Maintenance and Suspension

9.1 Maintenance

Gtelecom or its Suppliers may perform scheduled and unscheduled maintenance or perform updates in relation to the Products from time to time. Gtelecom will use reasonable efforts to give the Customer notice before undertaking any scheduled maintenance and to perform all scheduled maintenance at times likely to minimise interference to the Customer.

9.2 Suspension

Gtelecom may, without liability, immediately suspend performance of any or all of its obligations (including the supply of Products) under this Agreement if:

- (a) Gtelecom, acting reasonably, considers necessary to comply with any law or to protect the health and safety of any person;
- (b) the Customer defaults in the performance of any of its obligations under this Agreement and that default is not remedied within ten (10) Business Days;
- (c) the Customer is affected by an Insolvency Event; or
- (d) an Agreement with its Supplier(s) is suspended for any reason.

10. Termination

10.1 Termination by Customer for Convenience during Minimum Term

During the Minimum Contract Term Customer has to pay the balance contract term and terminate the Agreement by giving at least thirty (30) days' written notice to Gtelecom.

10.2 Termination by Either Party following Minimum Term or if no Minimum Term applies

Following expiry of the Minimum Term, or if no Minimum Term applies, either Party may terminate this Agreement, by giving at least thirty (30) days' written notice to the other Party, or as otherwise agreed between the Parties.

10.3 Termination by Gtelecom for Cause

Gtelecom may terminate this Agreement with immediate effect if:

- (a) the Customer breaches a Material Term of this Agreement and fails to remedy that breach within ten (10) Business Days after receiving notice from Gtelecom requiring it to do so;
- (b) the Customer breaches any other provision of this Agreement that is capable of being remedied and fails to remedy that breach within twenty (20) days after receiving notice from Gtelecom requiring it to do so;
- (c) there is a Change of Control of the Customer;
- (d) any event referred to in clause 12.5 (Insolvency Events) occurs;
- or (e) an agreement with its Supplier(s) terminates for any reason.

10.4 Insolvency Events

The Customer must notify Gtelecom in writing immediately if:

- (a) the Customer considers that there is a reasonable risk that it may cease to carry on business or its Business;
- (b) any step is taken to enter into any scheme or arrangement between the Customer and its creditors;
- (c) any step is taken by a mortgagee to enter into possession or dispose of the whole or any part of the Customer's assets or business or the Business; or
- (d) any step is taken to appoint a receiver, a receiver and manager, a trustee in bankruptcy, a liquidator, a provisional liquidator, an administrator or other like person of the whole or any part of the Customer's assets or business.

11. Consequences of Termination

11.1 Customer's Obligations on Termination

On termination of this Agreement the Customer must immediately:

- (a) if the Agreement is terminated by the Customer or by Gtelecom Customer has to pay Gtelecom the Termination Fee. The Customer acknowledges and accepts that the Termination Fee is a genuine and reasonable pre-estimate of the loss resulting to Gtelecom from the termination of the Agreement;
- (b) settle all monies owed between both parties; and
- (c) return to Gtelecom all of Gtelecom's Confidential Information, Intellectual Property and other material and all copies thereof.

11.2 Non-compliance

If the Customer has not complied with clause 13.1(c) within five (5) Business Days of the date of termination, the Customer must allow Gtelecom (or any representative nominated by Gtelecom) to enter any premises owned or occupied by the Customer to remove that material.

12. Indemnity

Subject to the limitations of liability set out in clause 15, the Customer indemnifies Gtelecom and its Related Bodies Corporate and its 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 provided under the Agreement; or
- (b) any grossly negligent act or omission of the Customer or any of its officers, employees, agents, contractors or representatives relating to this Agreement of any Products provided under the Agreement;

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

13. Liability

13.1 No implied terms

- (a) Gtelecom 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 15.1(a) applies, Gtelecom excludes all:
 - (i) statutory liability;
 - (ii) tortious liability (except to the extent that loss or damage is a consequence of Gtelecom's gross negligence in which event the aggregate amount claimed must not exceed the value of the Products 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, any failure to supply or delay in supplying the Products 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, Gtelecom's liability for any breach of such condition, warranty or guarantee is limited, at Gtelecom'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).

13.2 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.

13.3 Limitation of liability

- (a) Subject to clause 15.3(b), the total aggregate of each Party arising under or in connection with this Agreement is limited to the Charges paid by the Customer to Gtelecom in the 12-month period prior to the date of the relevant claim.
- (b) The limitation of liability in clause 15.3(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;
 - (iii) any damage to the Customer's property resulting from the supply of the Products, but Gtelecom limits its liability to its choice of repairing or replacing the property or paying the cost of repairing or replacing it; or
 - (iv) any breach of clause 5.1(a) (Customer Obligations) or clause 8 (Confidential Property and Intellectual Property).

14. Force Majeure

- (a) Neither Party will be liable for any failure or delay in complying with any term of this Agreement if such failure or delay directly or indirectly results from an event outside that Party's reasonable control (**Force Majeure Event**), including but not limited to, fire, storm, flood, earthquake, pandemic (including, without limitation, the COVID-19 pandemic), accident, war, labour dispute, materials or labour shortage other than its own staff or staff under its control, law or regulation or act or omission of any third person (including, without limitation, a carrier). Despite the foregoing, payment of money is never excused.
- (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 as 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) 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.

15. Disputes

- (a) Before resorting to external dispute resolution mechanisms the Parties agree to attempt to resolve any dispute in relation to this Agreement (other than a dispute in relation to payment of Gtelecom invoices).
- (b) The aggrieved Party will notify the dispute by giving written notice to the other Party (**Dispute Notice**). The Parties must use their best endeavors to resolve the dispute by negotiation between a senior manager of each Party.

16. General

16.1 Related Bodies Corporate

Gtelecom may perform any of its obligations under this Agreement by arranging for them to be performed by any of its Related Bodies Corporate.

16.2 Assignment

The Customer must not assign, novate or otherwise transfer any right or obligation under this Agreement without Gtelecom's written consent, which must not to be unreasonably withheld or delayed. Gtelecom may assign, novate or transfer all or any of its rights and obligations under this Agreement to any of its Related Bodies Corporate, but not otherwise without the written consent of the Customer, which must not to be unreasonably withheld or delayed.

16.3 Due Diligence

The Customer acknowledges to Gtelecom that it has had ample opportunity to conduct all due diligence activities which it required before entering into this Agreement (including obtaining, or having the opportunity to obtain, legal advice), and that it has entered into this Agreement based on its own investigations and has not relied on representations or warranties made by Gtelecom.