

## Standard Terms & Conditions of Trade

These terms apply whenever VoIP HQ Limited provides services and devices for customers.

### 1. Definitions

“**Company**”, “**we**”, “**us**”, “**our**” means VoIP HQ Limited;

“**Customer**”, “**you**”, “**your**” means the person or entity accepting these Terms;

“**Device(s)**” means the hardware supplied or used in connection with the Service;

“**Equipment**” means the Customer owned equipment used in connection with the Service;

“**PPSA**” means the Personal Property Securities Act 1999;

“**Proceeds**” has the meaning given in the PPSA;

“**Security Interest**” has the meaning given in the PPSA;

“**Service(s)**” means the Company’s hosted VoIP, internet services and related features made available to the Customer;

“**Service Activation Date**” the date on which the Company notifies the Customer that the Service is active and available for use;

“**Telecommunication Service Providers**” means third-party carriers or network operators used to deliver the Service; and

“**Terms**” means these terms and conditions.

### 2. Our Commitment to You

#### 2.1 We will:

- a) provide you with the Services and any associated Devices from the Service Activation Date until the date the Services are terminated in accordance with clause 4;
- b) provide the Services to your business with reasonable care and skill. We will use all reasonable efforts to ensure that the Services are reliable at all times although we do not guarantee that the Services will be continuous or fault free;
- c) ensure that all work that we perform in connection with the provision of the Services is carried out by competent and suitably qualified personnel and in a professional manner; and
- d) endeavour to remedy any fault or outage with the Service within the timeframe specified or otherwise within a reasonable timeframe.

#### 2.2 Owing to operational or other reasons, we may from time to time restrict or suspend a Service. In those circumstances, we will give you as much notice as reasonably possible and will endeavour to ensure that

suspensions or restrictions take place outside of normal business hours. Where we are restricting or suspending a Service in the case of an emergency or in order to protect people or property, or due to events beyond our reasonable control, we may not be able to give you any notice prior to such restriction or suspension, but will endeavour to inform you as soon as reasonably possible.

2.3 While we will do our best to provide quality Services, because of the nature of telecommunications, it is impossible to provide a fault-free service and the quality and coverage of the Services depends partly on your Equipment, partly on our network and partly on other Telecommunication Service Providers and telecommunications networks to which our network is connected or connects.

2.4 The Services can be adversely affected by radio interference, atmospheric conditions, geographic factors, network congestion, maintenance, outages on other networks and provider sites, the configuration or limitations of your, or your intended recipient's equipment, or other operational or technical difficulties which means that you may not receive some or all of the Services in certain areas or at certain times.

2.5 The Services can also change with network expansion or reconfiguration.

### **3. Your commitment to Us**

3.1 You agree:

- a) not to use or permit the Services to be used in any way which is illegal, in any way abusive or which constitutes harassment or which causes harm or damage of any sort;
- b) not to use or permit the Services to be used in any way that could interfere with or damage our network or that of any other operator;
- c) to follow our reasonable instructions about the use of the Services; and
- d) only to use the Services for the purpose for which they are provided.

3.2 You will ensure that all information you provide to us is accurate and complete. This includes advising us promptly if your business changes premises or postal address.

3.3 You acknowledge that your business is responsible for any use of the Services by yourself or by any third party, whether authorised by you or not.

3.4 You will, if we ask you to, obtain any third-party authorisation, license or consent that we may reasonably require in connection with the provision of the Services.

3.5 You agree to follow our instructions about the use of the Services and ensure that everyone who uses our Services in connection with the provision of our Services to you also meets your responsibilities when using the Services. You agree to keep us protected against any legal action taken against us and to meet any losses we may incur as a result of such use of the Services. You are responsible if anyone else, whether authorised by your business or not, uses or misuses our Services.

### **4. Termination**

4.1 We may suspend or terminate the Services immediately if you breach these Terms. Where the breach is capable of being remedied, we may (but are not required to) give you written notice and allow 10 days to remedy the breach. If you fail to do so within that period, we may proceed with termination without further notice.

4.2 You may terminate the Services at any time by giving us 30 days' prior written notice, provided that all outstanding invoices and charges are paid in full up to the effective date of termination.

4.3 Upon termination of the Services, you must allow us to collect or otherwise recover all Devices supplied by us. All Devices must be in good working condition, with no damage beyond fair wear and tear. If any Device is damaged, missing, or you do not allow us to collect it, we may charge you the full replacement cost of that Device, together with any reasonable fees associated with recovery.

## 5. Quotation

Our quotations remain available for one calendar month. Prices we quote are based on the cost of labour, materials, customs duties, sales tax, transport charges, marine insurance rates and any other government charges we have to pay from time to time. If between the dates of quotation and completion of the work there are variations in these costs the quoted prices will be subject to amendment to provide for such variations. For labour escalations, base rates will be taken as minimum award rates together with a margin of twenty five percent as set by the relevant union of workers.

## 6. Payment

You agree that any payments will be paid on the 20th of the month following our invoice. Any maintenance retentions are to be paid fourteen days after completion of the contract; any failure to make these payments without any deductions whatsoever on the specified due dates shall attract interest at the rate of 10% per annum. In addition, you agree to pay all costs incurred by us in recovering any overdue amounts, including but not limited to debt collection fees, legal fees and any associated expenses.

## 7. Ownership

7.1 You agree that:

- a) all Devices supplied by us shall remain our sole and absolute property until all charges, including the price, Service fees, installation costs, interest (if any), and any additional amounts payable for extra work or services, have been paid in full without deduction. If you default on any payment when due, we may, at our discretion, enter any premises where the Devices are located (with our staff or authorised contractors) to recover and remove the Devices or any part thereof. We may also suspend or deactivate our Services as reasonably necessary to facilitate such recovery. We accept no liability for any loss or damage arising from such removal or service suspension, and these actions are without prejudice to any other rights or remedies we may have under this Terms or at law;
- b) as security for all your obligations under the Terms (including for payment of the money owing and for the performance from time to time of your obligations to us), you grant us a Security Interest in all the Devices supplied, together with the Proceeds. Such security shall continue until all sums owing by you to us in respect of any Devices supplied have been paid in full; and
- c) any right to receive a copy of a verification statement under the PPSA is waived and that to the extent permitted by law:
  - i. sections 114(1)(a), 116, 120(2), 121, 125, 129, 131, 133 and 134 of the PPSA will not apply;
  - ii. you will have none of the rights referred to in paragraphs (a), (c) to (i) of section 107(2) of the PPSA; and
  - iii. where we have rights in addition to those in Part 9 of the PPSA, those rights will continue to apply and will not be limited by section 109 of the PPSA.

## **8. Facilities**

You agree to provide at your cost sufficient safe storage for our materials and working space required for the efficient performance of our work. You also agree to provide at your cost the uninterrupted use of light, electricity or other power and other facilities as we may reasonably need, including use of telephone and goods and passenger lifts, hoists and builders' scaffold, if such facilities exist.

## **9. Overtime**

Unless specifically stated otherwise, our quote provides for work to be done on week days during normal working hours and should it become necessary to work on other days or after and/or before such hours at your request owing to machinery in motion, public congestion or other circumstances rendering impracticable or hazardous the carrying out of this work during such ordinary working hours, you agree to be liable and pay extra cost.

## **10. Extras**

Whenever any alteration or addition to the building, equipment, appliances, fittings or fixtures after our survey or by any alteration made to the plans the quote was based on, or by any delay in the continuity of the work caused by any act or default on your part, an extra cost will be incurred to the contract.

## **11. Damage to Property**

Any damage to your property during the work of installation and directly caused by our negligence or default shall be made good only if reported to us in writing immediately after it's occurrence. Any claim is limited to the maximum amount payable under our public liability insurance.

## **12. All Goods and Services Acquired for Business Purposes**

12.1 You warrant that you are acquiring our Services and Devices for business purposes and consequently you agree that:

- a) the Consumer Guarantees Act 1993 (**CGA**) does not apply to the Services and the Devices; and
- b) that pursuant to section 5D of the Fair Trading Act 1986 (**FTA**) you contract out of sections 9, 12A, 13 and 14(1) of the FTA,

nothing in these Terms is intended to contract out of the provisions of the CGA or the FTA, except to the extent permitted by those Acts.

12.2 Subject to clause 12.1:

- a) we make no representations or warranties, whether express or implied, in relation to the Services or the Devices; and
- b) to the maximum extent permitted by law our total liability (whether in contract, statute, tort, including negligence, or otherwise howsoever arising) for any claim by you relating to or arising from our Service and/or Devices shall not exceed the amount paid by you for the relevant Service and/or Devices.

### **13. Limitation of Liability**

The Company's liability for any and all claims, losses, damages, or expenses arising out of or in connection with any Service and/or Device shall be strictly limited such that any claim must relate solely to the Service and/or Device provided during the specific period covered by the relevant invoice, and the Company shall have no liability for any claim not directly arising from that invoicing period. Further, the Company's total aggregate liability in respect of any such claim shall not exceed the total amount invoiced under the applicable invoice, and, for the avoidance of doubt, no claims may be aggregated across multiple invoices or invoicing periods to increase the Company's liability beyond the amount of any individual invoice.

### **14. Use of Information**

You agree that we may obtain information about you or any other person (including any credit or debt collection agencies) in the course of our business, and you consent to any person providing us with such information. You agree that we may give any information we have about you relating to your credit worthiness to any other person, including any credit or debt collection agency, for credit assessment and debt collection purposes. In addition, any other information collected by us about you is assessed or collected for use in the course of our business, including direct marketing activities and you authorise us to use this information for these purposes. You must notify us of any change in circumstances that may affect the accuracy of the information provided by you to us. If you are an individual, i.e. a natural person, you have rights under the Privacy Act 2020 to access and request the correction of any personal information which we hold about you.

### **15. Force Majeure**

We shall not be liable for any delay, failure, interruption, degradation, or inability to provide Services caused directly or indirectly by any event beyond our reasonable control. Such events include, but are not limited to, severe weather conditions, natural disasters, fire, accident, epidemics, acts of God, acts of war or terrorism, labour disputes, strikes or lockouts, civil commotion or riots, criminal acts, power outages, failures of Telecommunication Service Providers, internet service providers or upstream carriers, denial-of-service attacks or other cyber incidents, equipment or network failures outside our control and any governmental laws, regulations, or orders. Any such event (whether similar or dissimilar in nature to the foregoing) shall constitute a Force Majeure event, and we shall have no responsibility or liability for resulting delays or Service impacts.

### **16. Mediation**

Any dispute of whatsoever nature arising in connection with these Terms shall be referred to mediation.

### **17. Variation**

These terms shall not be varied unless agreed by both parties in writing.