

General Terms and Conditions

These Standard Terms and Conditions apply to services supplied to consumers. Please read carefully. Certain words are used with the specific meanings set out in clause 32.

1. What is the Customer Contract?

The Customer Contract sets out the terms and conditions on which we will provide you the services as an RSP (Retail Service Provider) over our own networks and/or over any third party supplier networks. It is divided into several sections:

- a. these general terms and conditions, which unless otherwise indicated, applies to all services and to all Customers; and
- b. Your application via the Service Activation Form and/or Online Signup; and
- c. the information about the services we provided to you in the Pricing and Service Information Guide and other service information documentation relevant to your service location.

2. Changing the Customer Contract

We may change the Customer Contract including the charges for the services without your agreement. Telecommunications legislation allows us to set out our standard Customer terms in a "Standard Form of Agreement". The Customer Contract is our "Standard Form of Agreement". Under the legislation:

- a. you and we must comply with the Customer Contract unless you and we have agreed differently;
- b. if we change the Customer Contract and it would cause detriment to you, we must notify you in writing at least 30 (thirty) days before the proposed change via your nominated contact preference.
- c. If practical to do so we will aim to give you at least 30 (thirty) days written notice (via your nominated contact preference) but do not have to give you 30 (thirty) days' notice of our proposed changes to the Customer Contract in relation to:
 - (i) urgent changes we are required to make:
 - A. By law;
 - B. For security reason; or
 - C. For technical reasons necessary to protect the integrity of our systems and/or third party supplier networks
 - (ii) the introduction of a new charge or an increase in an existing charge:
 - A. Due to an additional tax or levy imposed by law; or
 - B. For ancillary services such as credit card transaction fees and direct debit charges (provided we have offered you a reasonable alternative at the same or lesser cost to the original change);
 - (iii) Where the change is to introduce or vary a charge associated with a service where we rely upon a third party supplier for the service and the third party supplier imposes a price increase on us.
- d. if we change the Customer Contract and it does not cause detriment to you (eg decreasing our charges), we can make the change and do not need to notify you in writing before the change. However, we will attempt to notify you via our website or your nominated contact preference after the change.

3. Inconsistencies

If anything in these General Terms is inconsistent with something in a section of the Customer Contract specific to a service, then the particular section applies instead of the General Terms to the extent of the inconsistency.

4. Becoming our Customer

i. Your Acknowledgement

You acknowledge that you have relied on your own judgment to evaluate the suitability of the services for the purpose for which you require the services.

ii. Accepting your Service Activation Form

When you ask for a service, we decide whether to supply it to you based on:

- a. the particular terms for that service; and
- b. your eligibility for the service; and
- c. its availability to you; and
- d. you meeting our credit requirements.

We are deemed to have accepted your application when we begin providing the service to you.

iii. Connecting your service

We have to try to connect some services within particular time frames. For other services, we will try to connect your service within a reasonable time frame (these time frames maybe impacted at times by a third party supplier that we are reliant upon for your service).

Pivot or a third party supplier may need to install cables at your Premises to connect your service (e.g where a connection has never been established). You must arrange and pay for any trenching or other materials needed to premises the cabling. You indemnify us against (and must pay us for) any liability we incur (including any claim made against us by you), any loss or damage we suffer and any costs we incur relating to your breach of this clause.

We and/or a third party supplier decide the route and technical means that we use to provide your service.

iv. Transferring your service

Pivot Business Customers (only) can transfer legal responsibility and/or ownership of your service by obtaining our written consent first. A fee to transfer your legal responsibility is chargeable on a case by case basis.

v. Business Customers

If you are or become a "carrier" or "carriage service provider" under the Telecommunications Act 1997, you have to tell us and we can refuse to provide a service to you (or we can cancel or suspend your services) unless you also enter into a written agreement with us.

If you are a Business Customer, Government Customer, Charitable Organisation or Non-Profit Organisation, you can appoint a third party to act on your behalf in relation to the Customer Contract if you get our written consent first. We cannot withhold our consent unreasonably but we can withdraw our consent on reasonable grounds relating to the third party's conduct.

We occasionally need your consent to do certain things. We can rely on the authority of any of your employees who



tell us they have authority to give your consent, as long as we act in good faith.

5. Our Aim

We aim to provide:

- i. but do not promise continuous or fault-free services.
- ii. but do not promise to provide internet speeds up to your chosen speed and cannot guarantee these speeds at peak times due to contention ratios set by third party suppliers.

6. Maintenance and repair

i. Scheduled Maintenance

We and any third party suppliers that we rely upon for your services will use our reasonable endeavors to:

- a. try and provide you with 5 days notice of any scheduled maintenance on the network, equipment or facilities used to provide your services but may not always be able to do so (e.g emergency situation).
- b. try and conduct maintenance on the network, equipment or facilities used to provide your services between the hours of midnight and 7am to minimise disruption to you but may not always be able to do so.

ii. Maintenance by you

You have to maintain and repair any Equipment that does not belong to us and is at your Premises and do any maintenance or repairs that we or a third party supplier (directly or indirectly via Pivit) ask you to.

iii. Fault caused by Your Equipment

Before reporting a fault to us, you must take reasonable steps to ensure the fault is not a fault in your equipment. We are not responsible for rectifying any fault in the service where the fault is caused by your equipment.

If Your Equipment causes a fault in a service we can charge a call - out technician fee and any reasonable charges for rectifying the fault.

If your Equipment causes a fault in a service, and your service is reliant upon a third party supplier We reserve the right to charge you any fees charged to us by the third party supplier (eg. No Fault Found site visit charge) in addition to a call-out Pivit technician fee and any reasonable charges for rectifying the fault.

7. Use of the service

i. Use for intended purpose

The Customer Contract may state that a service is provided for a particular purpose. You must only allow the service to be used for that purpose.

ii. Illegal Use

You must not knowingly use, or permit any other person to use the service for any purpose or activity of an illegal or fraudulent nature. You must not use the service to contribute to the commission of a crime or to infringe the rights of a third party.

- a. using unsolicited commercial email as a means of advertising on the Internet;
- b. being the source, intermediary or destination of electronic mail or Internet or other address involved in the transmission of SPAM, chain letters, mail-bombs or similar things;

c. being listed in any spammed message, either as the source, intermediary or reply-to-address; or

d. delivering harassing electronic mail, whether through language, art form, repetition, frequency or size of electronic mail.

Doing so will result in your services being suspended or cancelled without notice and we are not liable for any loss incurred by you. You are responsible for all applicable fees and charges.

8. Your responsibility

You are responsible for and have to pay for any use of your service, whether you authorise it or not. If you are moving out of the premises, you must request to disconnect your services. If you do not request to disconnect your service when you leave your Premises, you have to pay for any use of the service by later occupants or others. We recommend you consider taking measures to protect yourself from unauthorised use of your service. Any person who uses your service, or allows someone else to use it, after you have vacated your Premises, is jointly and individually liable with you for any charges relating to that use.

9. Compliance with our directions

You must comply with all reasonable directions that we give you with respect to use of the service(s).

10. Excessive or unusual use

We do not promise to monitor your service for excessive or unusual usage. We can suspend or cancel your service if it is used in an excessive or unusual way, but do not promise to do so. If we do suspend or cancel your service, you still have to pay any charges incurred for any excessive or unusual usage plus any additional fees incurred with this suspension and/or reconnection of services.

There might be excessive or unusual use if you have a call that remains connected for an unusually long period of time or where an unusually large volume of calls are being made to particular numbers such as premium-rate or international services.

11. Causing interference

You must do what we and/or our third party suppliers tell you to do if your use of a service interferes (or threatens to interfere) with the efficiency of the network (including because you have inadequate capacity). You have to make sure that no-one interferes with the operation of a service or makes it unsafe. Not complying with reasonable requests from either us or our third party suppliers regarding this may result in your services being suspended until you agree to cooperate with the request. You will be responsible for all applicable fees and charges

12. Compliance Rights

We and/or any third party supplier that we rely upon for your services may, at any time:

- a. intercept any of the services, for the purposes of complying with our legal obligations;
- b. monitor your use of the services and the messages sent or received through the services, for the purposes of complying with our legal obligations or the lawful exercise of our right to enforce this Customer Contract.

13. Your responsibility for equipment

You are responsible for Your Equipment at your Premises (including any that belongs to us and/or our third party supplier). You have to pay us for any loss or damage to our and/or third party suppliers equipment at your Premises, except for fair wear and tear.

14. Your Obligations

You covenant and agree that:

- a. you shall, if required by us and/or our third party supplier provide your own equipment necessary to access the services;
- b. we and/or our third party supplier may at our discretion and at any time require you to disconnect Your Equipment or any part or parts of Your Equipment from accessing and using a service if, in our reasonable opinion Your Equipment is or has been the cause or is likely to be the cause of failures, interruptions, errors or defects in the service;
- c. you are responsible for all maintenance of Your Equipment;
- d. you must not use Your Equipment (when accessing the service) in a manner inconsistent with this Customer Contract;
- e. you are not relying on the services having any particular performance characteristics, response times or availability.

15. Power supply

You have to arrange and pay for any electricity supply needed for a service at your Premises. The service may not work if the electricity supply is cut.

16. Compliant equipment only

You must only connect Your Equipment that complies with relevant technical standards and other relevant requirements. For these standards see the Australian Communications and Media Authority's website at: <http://www.acma.gov.au> You must make any changes we and/or the third party suppliers ask regarding Your Equipment to avoid any danger or interference it may cause.

i. Routers

Wireless routers are available for purchase from Pivit and will be billed to a customers account for invoicing. Once billed to an account, the router becomes the equipment and responsibility of the customer. Warranties are valid for 12 months from date of invoice and are only valid for the original purchaser of the router. If the router fails during normal and proper use within the Warranty Period, Pivit will refund or replace the router.

The option to either refund or replace the product is at the sole discretion of Pivit. If Pivit chooses to replace this router, the replacement product will be determined by Pivit. The failed router in question will need to be returned to Pivit at the expense of the purchaser for testing, prior to a replacement or refund being issued.

In the event that Pivit chooses to refund monies paid for a router, this refund will be applied as a credit to the purchaser's customer account. This Warranty does not include failure caused by improper installation, operation, cleaning or maintenance, accident, damage, misuse, abuse, any software programs, normal wear and tear or any other event, act, default or omission outside Pivit's control.

17. Tell us if things change

You have to contact us about any relevant changes to your services or equipment and/or if any of your contact details and/or automatic payment details change.

18. Charges and payment

i. Charges

The Customer Contract sets out the charges you must pay us for your services. We will send you an electronic Tax Invoice for the charges payable to us and you must pay all amounts by the due date specified on the invoice. If we have omitted charges from an invoice, we may include those charges in a later invoice.

If you do not pay a bill by its due date, we can charge you an administrative fee and interest on the outstanding amount at 12% per annum, compounded daily until it is paid in full. We can also suspend or cancel your service.

If you pay a bill by cheque and the cheque is dishonoured, you must also pay us a fee of \$16.50 (including GST). If you pay a bill by direct debit or credit card and the payment is declined on the due date for any reason, you must also pay us an automatic payment decline fee of \$20.00 (including GST). If your bill is not paid in full by the last day of the calendar month, an additional \$5.50 late administration fee will be automatically charged.

If you have not notified us within 10 days of the invoice date of a dispute in relation to any charges in the invoice then you are deemed to have accepted the invoice amount in full.

If your account is unpaid by the due date we may refer your unpaid invoices to a collection agency. All costs associated with referring your account to the debt collection agency will be at your cost.

ii. Adjustments

We can round charges up or down to the nearest whole cent (0.5 cents is rounded up). If you pay a bill by cash, we may round the amount payable by you to the nearest multiple of 5 cents.

We can pay you amounts we owe you by deducting them from amounts you owe us. You must pay us without any set-off, counter-claim or deduction. If we require you to pay any charges in advance (eg, monthly access fees) and they are varied or the service is cancelled, we refund you any overpayment and you have to pay us any underpayment.

In order to provide some services to you (like international calls), we enter into arrangements with other providers and may be charged by them. If the other providers charge us more than we charge you for the service, we can charge you the difference in addition to our charge if we think your use of services has been excessive or unusual.

iii. Credit Balances

If you have a credit balance of \$5 or less in any of your accounts with us, we only have to pay it to you if you ask in writing.

iv. GST

The amounts specified in this Customer Contract are inclusive of GST. We will issue a Tax Invoice to you for any supply on which GST is imposed.

v. You can relocate your service

If you move to an area where Pivit can still continue to provide your services being either over the NBN network or to a Pivit serviceable area, your services can be transferred to your new premises. Fees and charges apply including but not limited to:

- (i) Service Relocation fees
- (ii) Any services establishment charges
- (iii) New services connection fee (where a previous service does not exist)

19. You can cancel your service

You can cancel your service at any time by request by giving us 30 days written notice. We may charge you a cancellation fee if you cancel a service before we have provided it to you, or if you cancel a service before the minimum term you have committed to expires.

20. Cancellation or suspension of your service

We can suspend or cancel a service without notice if:

- a. we do not receive payment within 5 business days of the due date unless a prior arrangement has been agreed with us; or
- b. we are allowed to under another term in this Customer Contract; or
- c. you breach the Customer Contract; or
- d. we believe it is desirable or necessary to do so to maintain or restore our and/or a third party's Equipment or any part of the Network; or
- e. we and/or our third party supplier cannot enter your Premises to install, inspect, repair, maintain, replace or remove Equipment connected with the service; or
- f. there is an emergency; or
- g. the law allows or requires us to; or
- h. providing the service to you may be illegal or we anticipate that it may become illegal; or
- i. the Australian Competition and Consumer Commission issues a competition notice relating to the service or we anticipate that it may do; or
- j. it is reasonably required to reduce or prevent fraud or interference with the service; or
- k. there is any act of God, fire, electrical short circuit, power failure, telecommunications failure or fault, Government action, industrial dispute, lockout, or any other circumstance beyond our reasonable control; or
- l. we are required to comply with an order instruction or request of government, the ABA, the ACMA, emergency services or other competent authority; or
- m. a third party supplier that we rely upon for your service, for whatever lawful reason or due to an enforceable clause or condition in the agreement between us and the third party supplier, chooses to suspend the access provided to us as your RSP and/or your service/s; or
- n. you vacate your Premises or you die; or
- o. you become bankrupt or insolvent or appear likely to do so.

21. After cancellation or suspension

If a service is cancelled or suspended, you still have to pay

charges incurred beforehand and during the suspension period. If a service is cancelled before a minimum term you have committed to expires, then you may also have to pay cancellation charges and all applicable Early Termination fees relating to your chosen contract period. The provisions relating to liability and indemnity also continue unaffected. We can ask you to pay a reconnection charge before we reconnect a service that has been cancelled.

22. Termination and discontinuation

We reserve the right to terminate this Customer Contract and stop supplying any of the services to you at any time by giving at least 30 days notice in writing to you. If you are not in breach of any of the terms and conditions of this Customer Contract, any charges paid by you to us in advance will be refunded to you by us pro-rata to that amount of your unused credit.

If our and/or the third party's supplier license or authority to provide the services is withdrawn, restricted or altered in such a way that we consider it is not commercially viable or impractical or impossible to continue to provide the services to You we may elect to discontinue your access to the services provided however we will endeavor to provide you with prior written notice, where it is reasonable and practicable in our opinion to do so.

23. Our liability to you

i. No Claim

Subject to clause 23.2 you have no claim against us in respect of any loss of access of functionality to the service under clauses 6.1 (Scheduled Maintenance) or 20 (Cancellation or suspension of your service) or interruption or outage whether such claim lies in contract, tort, negligence or otherwise for any loss or damage howsoever arising.

ii. Death, personal injury or property damage

We accept liability for our negligence in relation to supplying services if it causes personal injury or death.

If our negligence in relation to supplying services causes damage to property, we will repair or replace the property (or pay to do so).

iii. Quality of service

We give no warranties to you, express or implied in respect of the goods or services supplied to you under this Customer Contract, and all warranties are excluded to the extent permitted by law.

Certain laws imply terms into contracts for the supply of goods or services that cannot be excluded (eg, that services are provided with due care and skill and goods are reasonably fit for their purpose and of a certain quality). If those terms are implied into the Customer Contract and we breach them, we accept liability for the breach. Our liability is limited to re-supplying, repairing or replacing the relevant goods or services where the goods or services are not of a kind ordinarily acquired for personal, domestic or household use or consumption and where it is fair and reasonable to do so.

iv. When we are not liable

We are only liable to you in the cases set out in this clause. Otherwise, we are not liable to you in contract, tort (including negligence) or otherwise for any loss or damage. For example, we are not liable for loss of profits or anticipated savings, economic loss, lost data or any

indirect or consequential damage.

v. V Acts of Supplier

As an RSP, we may be reliant on third party suppliers to provide your service. We have no liability to you or to any other person for losses, damages or costs for the acts, omissions or defaults of any Supplier who provides goods or services to us or directly to you for use in connection with a Service.

vi. Force Majeure

We are not liable for failing to comply with The Customer Contract because of:

- (a) any delay by us or a third party supplier (we rely upon for your service) in installing any Service or correcting any fault in service
- (b) any service outages of any kind caused directly or indirectly by us or a third party supplier network, any Force Majeure Event directly or indirectly responsible for loss of a service.

24. Your liability to us

i. Joint Customers

If you and one or more others are the Customer for a service, each of you are jointly and individually responsible for all charges and other obligations relating to that service.

ii. Indemnity

You indemnify us against (and must pay us for) any loss, damage or costs we and/or any third party suppliers (that we rely upon for your service) incur, relating to:

- a. the use (or attempted use) of your service;
- b. equipment used in connection with your service;
- c. your breach of the Customer Contract;
- d. any material you access through the service which is in any way defamatory;
- e. any information or data obtained, accessed or published by you.

25. Telephone numbers and PINs

The Telecommunications Number Plan sets out rules for issuing, transferring and changing telephone numbers. You and we must comply with the Telecommunications Number Plan.

You do not own or have any legal interest or goodwill in any telephone number or PIN issued to you. You are entitled to continue to use any telephone number we issue to you, except in circumstances where the Telecommunications Number Plan allows us to recover the number from you.

We can vary Customer dialling codes used to access a service with a PIN.

Because you have to pay for any use of your service, whether you authorise it or not, we recommend you protect the security of any PIN used with your service by keeping it confidential.

You should not disclose it to nay (no) other person.

26. Accessing your Premises

i. When we can access your Premises

We and/or our third party supplier may need access to your Premises. You agree to provide us and/or our third party supplier safe access to your Premises:

- a. to install Equipment for a service you have asked for; and
- b. to inspect, test, maintain, repair or replace equipment; and
- c. to recover our and/or our third party supplier Equipment after your service is cancelled.

You owe us and/or our third party supplier the value of our Equipment as a debt due if we cannot access your Premises to recover it and any fees and charges incurred by us and/or the third party supplier.

ii. Owner's permission

If you do not own your Premises, you must ensure you have the owner's permission for us and/or our third party supplier to access the Premises and install and maintain any Equipment. You indemnify us and/or our third party supplier against (and must pay us for) any claim the owner makes against us and/or our third party supplier relating to our entering your Premises.

27. Privacy

i. Consent

By applying for the service(s) you authorise us and/or our third party suppliers to exchange with related bodies corporate, subcontractors, authorised contact person, professional advisers, credit agencies, debt collection agencies, government and regulatory authorities (as required by law) the Customer information provided by you in the Application and in the course of providing the services.

We may collect and use your personal information at times for;

- a) researching and developing our products and services.
- b) updating you on our services, news, promotions and offers. You consent to us contacting you at any time (including after you have terminated the agreement), for this purpose through any available contact methods. You can withdraw your consent at any time by contacting us.

ii. Compliance

You must comply with all obligations that may be imposed upon you in relation to, without limitation, the collection and use of personal information as provided for in the Privacy Amendments (Private Sector) Act 2000 (Cath).

28. Void or unenforceable terms

If any term (or part of a term) in the Customer Contract is void or unenforceable, that term (or part) is taken to be removed from the Customer Contract and not to form part of them. The remaining terms continue to have full effect.

29. Assignment

i. Assignment by You

You must not assign your rights or obligations under this Customer Contract without our prior written consent which may not be unreasonably withheld.

ii. Assignment by Us

We can assign our rights and obligations under this Customer Contract in our discretion without your consent.



Upon such assignment we will have no further liability whatsoever to you under this Customer Contract.

30. Jurisdiction

The law of Queensland applies to this Customer Contract and the parties submit to the non-exclusive jurisdiction of the courts of Queensland.

31. Subcontract

We may sub-contract to a third party some or all of our rights and obligations under this Customer Contract.

32. Special meanings

In The Customer Contract:

Business Customer means any Customer who we believe carries on a business, and includes:

- (a) an individual whose White Pages entry incorporates a business reference; or
- (a) a company registered under the Corporations Act having an ACN or an ARBN/ABN or any other body corporate; or an association or club (whether incorporated under Associations Incorporation Legislation or not) that is not a Non-Profit Organisation or Charitable Organisation.

Charge means a charge specified or referred to in the Customer Contract.

Charitable Organisation or charity means an Organisation that is endorsed by the Commissioner of Taxation as a deductible gift recipient under Subdivision 30-BA by reason of being a public benevolent institution under item 4.1.1 of the table in section 30-45 of the Income Tax Assessment Act 1997.

Customer means a person who contracts with us for a service (including for supply of that service to another person) or who otherwise acquires a service from us, or who seeks to do either of these.

Equipment means hardware and a "Facility" under the Telecommunications Act 1997, including any line, tower, mast, antenna, tunnel, hole, pit or pole used in connection with a service.

Government Customer includes all federal, state, territory and local government departments, authorities, agencies and businesses.

GST means the tax imposed by the A New Tax System (Goods and Services Tax) Act 1999 and the related imposition Acts of the Commonwealth.

Insolvent includes having a receiver, manager, administrator, provisional liquidator or liquidator appointed to you.

Network means our "telecommunications Network" as defined under the Telecommunications Act 1997.

Non-Profit Organisation means an organisation that does not operate for profit.

PIN means personal identification number and includes identification such as your username and password.

Premises means any land, home, structure, vehicle or vessel, whether owned, leased or occupied by you, containing equipment or a service, or to which a service is supplied.

Services means the internet, voice, TV services specified in the Service Activation Form, that we provide to you, and

includes any goods or equipment provided in connection with those services.

Tax Invoice has the meaning given in the A New Tax System (Goods and Services Tax) Act 1999 (Cth).

We means Pivit and includes our successors and assigns.

You or your means the Customer named in the Service Activation Form for the services.

Your equipment means equipment you provide to access the services, including any necessary hardware and software.

Third Party Supplier – An entity that we rely upon to provide you with services (e.g network owner, wholesale service provider, partner).

Force Majeure Event - Refers to any event outside that is beyond our reasonable control, and may include but is not limited to a failure or fluctuation in any electrical power supply, failure of air-conditioning or humidity control, cable cut, vermon infestation that effects equipment, fire, storm, flood, earthquake, plague accident, war, riot, vandalism, embargo, labour dispute, materials or labour shortage, the change or introduction of any law or regulation, computer viruses, hacker attacks, failure of the internet or default by any other supplier.