

TERMS AND CONDITIONS

Parties

CompuHubNZ Ltd has its primary place of business at, 5 Lilac Close, Cambridge, 3434 (“Provider”).

The CUSTOMER refers to anyone using Provider’s Services for Voice and Internet. (“Customer”)

1) Definitions

1.1 In these Customer Terms, we use the terms:

(a) "Affiliates" to refer to the following affiliates of Provider:

- (i) directors, employees, agents, representatives and contractors; or
- (ii) owners and providers of Networks who allow Provider to operate its networks;
- (iii) other network operators who use the Network and allow Provider to use their networks, including their directors, employees, agents, representatives and contractors; and
- (vi) any other person who provides any service which is part of the Services, including their directors, employees, agents, representatives and contractors;

(b) "Business Customer" is defined in clause 10.2;

(c) "Internet" to refer to the use of the World Wide Web and associated services;

(d) "Services" to refer to any service provided by Provider;

(e) "Network" to refer to any of the networks operated by Provider or other carriers used to provide the Customer with various services from Provider;

(f) "Residential Customer" is defined in clause 10.1;

(g) "Users" the Customer and/or any person permitted by the Customer to use or access the Services; and

(h) "Working Day" means any day other than a Saturday, Sunday, or national public holiday in New Zealand or Australia unless otherwise specified.

(i) "Customer Terms" means Terms and Conditions.

(j) "Force Majeure" means an extraordinary event or circumstance beyond the control of Provider or the Business Customer

2) Matters Agreed

2.1 These Customer Terms forms a legally binding agreement between Provider and the Customer and shall be deemed to have been accepted and agreed to by the Customer upon completion and submission of an application in writing or from the date of first using Provider network or network services.

2.2 Where the Customer has verbally completed an application by telephone, Provider will advise the Customer of the key Customer terms and refer the Customer to the availability of the full version of the Customer Terms on the Website. Provider will record this conversation, and the Customers' acceptance will have the same effect as if the Customer had signed an application form in writing.

3) Changing these Customer Terms, Price Lists and Services

3.1 Change in Customer Terms: Provider reserves the right to amend these Customer Terms at any time. If Provider amends these Customer Terms, it will endeavour to provide a minimum of 10 Working Days' notice and, wherever possible, at least one month notice of these changes. Provider reserves the right to change these Customer Terms without notice if Provider is required by law to do so or where that change is necessary for security reasons, to prevent fraud or for technical reasons. Provider will notify the Customer of these changes by writing or emailing the Customer and will upload a copy of the amended Customer Terms on its website at the Website. It will be the Customers responsibility to visit the Website to obtain a copy of the amended Customer Terms. Continued use of the Services after these changes have been notified to the Customer will constitute acceptance of the

amended terms by the Customer. These terms will then form part of the Customer Terms agreed between Provider and the Customer.

3.2 Change in Price List: These Customer Terms incorporate Provider's current applicable price list. The price list may change from time to time. Where the price of the Services increases, Provider will notify the Customer at least 10 Working Days prior to the increase and where possible with one month's notice. A copy of Provider's current applicable price list and plans is available from Provider at the Customer's request. Pricing on services within a contracted term will not be altered under clause 3.2. Pricing set out within a customer agreement is locked in place for the duration of the agreed term.

3.3 Change in Services: Provider may alter its Services from time to time. If Provider alters its Services in a way that materially reduces the Service offering currently received by the Customer, Provider will provide the Customer a minimum of 10 Working Days' notice, and wherever possible, one month's notice, of such alterations. Provider will tell the Customer about any such alterations by emailing or writing to the Customer and by publishing the change on the Website.

4) Provider's Obligations

4.1 Whenever Provider provides Services for the Customer, Provider will:

- (a) use its best efforts to provide the Customer with a consistently reliable and good quality Service once the Customer is connected to the Network;
- (b) use its best efforts to reinstate the Services when the Customers service is disrupted within a reasonable timeframe;
- (c) supply the Services through the Network to the Customer in a way that Provider believes is the most appropriate form for the Customers connection;
- (d) choose the carriers and suppliers used to provide the Services (which Provider may change at its sole discretion); and
- (e) advise the Customer how to access the Network (this may change from time to time at Provider's sole discretion).

4.2 Provider does not represent, warrant or guarantee that the Services will be:

- (a) interruption or fault free, or that any faults or errors will be able to be corrected;
- (b) available at any particular time or location;
- (c) available, or available without change, for any minimum period of time;
- (d) secure or private; and/or
- (e) free of viruses or other harmful features.

5) Payment and Billing

5.1 The Customer must pay for all goods and services that Provider provides at the Customer's request.

5.2 Provider will send the Customer invoices within the first week of each new month. The Customer must pay each invoice by the due date for payment as set out in the invoice.

5.3 If the Customer fails to pay in full by the stated due date, the Provider may:

- (a) charge a late payment fee and interest on all overdue accounts at a rate of 10% per annum, until payment is received in full by Provider, but without prejudice to all or any of Provider's rights and remedies under these Customer Terms (any payment received will be

applied firstly against interest and then late payment fees) or at law;
(b) require the Customer to pay any costs that are incurred by Provider (including agents) in recovering the money owed, or in exercising any other rights, including commissions, credit collection and legal costs on a solicitor and client basis; and/or
(c) discontinue the provision of the Services and/or refuse to provide any further Services to the Customer (Provider will notify the Customer at least 5 Working Days before it will disconnect the Service for non-payment).

5.4 The Customer must notify Provider immediately if the Customer disputes any charges. The Customer must provide Provider with details of the reasons for the dispute, details of the charges and evidence of the grounds for the dispute. The dispute must be raised before the due date of the bill. Any claim outside of this time frame may not be recognised (at Provider's sole discretion). Payment for the undisputed charges must be made by the due date for payment. The Customer must not set-off or deduct any amount to be paid in respect of the bill in any other circumstances.

5.5 If Provider agree there is a mistake, Provider will adjust the Customer's next bill or, if appropriate provide a refund. If Provider find there is no mistake, and if the due date for payment has already passed, the Customer must pay the amount outstanding within five Working Days.

5.6 The Customer agrees and acknowledges that all amounts exclude GST, unless otherwise specified.

5.7 Payment for all charges is due on the 20th of the month following invoice date, if any payment is due on a day which is not a Working Day, the due date will be the next Working Day in the same calendar month or, if none, the preceding Working Day. From time to time at Provider's sole discretion Provider may accept other methods of payment.

5.8 Provider will begin charging for a service once we deem Service to have been given (based on the requested RFS date) regardless of whether the end client has actively started utilising the Service.

5.9 If multiple services are being provisioned as part of WAN, billing will commence for each individual service component as they go live.

5.10 Early termination charges (ETCs) will apply if a service is cancelled by the customer prior to the contracted end date. ETCs are calculated as remaining months in contracted term multiplied by the monthly fixed fee.

5.11 Changes to existing plans enacted at commencement of new billing period.

5.12 Voice Services, excluding 3CX, may be downgraded during a service term, providing:

- (a) the new monthly reoccurring price is not less than 80 per cent of the initial contracted price for that Service.
- (b) the Service has not been reduced previously
- (c) the Service is not subject to any special or one-off pricing

6) Billing Policy

6.1 All Provider fixed recurring services will be invoiced monthly in advance.

6.2 Variable charges will be invoiced in arrears.

6.3 Calls made from anonymous numbers to tollfree numbers hosted by Provider will be charged at the mobile inbound rate.

6.4 Calls made from tollfree to numbers to tollfree numbers hosted by Provider will be charged at the landline inbound rate.

6.5 Call charges are rounded up to the nearest minute for billing purposes.

7) The Customers Obligations

7.1 The Customer will:

- (a) Ensure that all of the information given to Provider is correct and complete.
- (b) Notify Provider immediately of any change of the Customer's address, or land line or mobile phone number, or any other relevant contact details.
- (c) Comply with any legal requirements concerning the use of Provider's Services.
- (d) Comply with any requirements of any other carrier in relation to the use of the Network.
- (e) Ensure that everyone is aware of the Customers obligations and responsibilities under these Customer Terms.
- (f) Provide reasonable access to Provider employees, its agents, its contractors or its representatives or its sub-contractors including any other carrier to undertake any and all work required for the commencement, operation, continuance and maintenance of Provider's Services and the Network. Provider will undertake this work by appointment and during reasonable working hours. In the event that Provider requires access at a time outside of reasonable hours then the Customer will be notified but access must be provided to Provider.
- (g) Provide Provider with the Service login and email information to enable Provider to rectify any faults with either the Network or the Customer's connections.
- (h) Follow the instructions and directions Provider provide about using the Services and only use them for lawful purposes.
- (i) Ensure that anyone using the Customer's connection will not view/download objectionable content in contravention to applicable laws.
- (j) Comply with all applicable laws, regulations, standards and codes when using our Services, including, but not limited to any Privacy Acts, Fair Trading Act, Copyright Acts, Defamation Acts, Crimes Acts, and not infringe a third party's rights.
- (k) Make sure everyone who uses the Services that Provider provide to the Customer, or does anything in relation to them, is also aware of, and meets, these responsibilities. The Customer is responsible and liable for any use by any other person (authorised or unauthorised) of the Services Provider provide the Customer, including any charges associated with that use and any consequences if such person misuses the Services or breaches these Customer Terms.

7.2 If Provider requires a bond or some other such security to ensure payment of Provider's charges, the money will not accrue interest and it will be repaid to the Customer when these Customer Terms are terminated so long as all monies owed by the Customer have been paid.

7.3 The Customer acknowledges and agrees that all equipment (for example but not limited to routers, switches, CPE's, aerials etc.) installed or located at the Customer's premises remain at all times the property of Provider and the Customer agrees not to take any action, or omit to take any action, that affects or is likely to affect Provider's ownership rights.

7.4 If Provider has provided hardware as part of the services provided to a customer, this hardware remains the property of Provider indefinitely.

Hardware will be deployed in a location as directed by the nominated site contact. Customers are

obligated to ensure a safe and secure environment for the hardware provided. Lost or damaged hardware needs to be replaced at the end user's expense. In the event of a service outage due to stolen or damaged hardware, the event will be determined to be a force majeure event, and as such will not be subject to restoration targets as defined within the relevant SLA. However, Provider's upstream supplier holds spare stock in its depots and expects 1-2 business day delivery lead times for most locations.

7.5 Customers must work with Provider remote support staff on a best efforts basis to determine the cause of any service faults. If an on-site support visit is carried out at a customer's request but finds no fault with service elements within Provider's control, a no fault found fee of \$199 ex GST may be applied.

8) Acceptable Use Policy

8.1 Provider's Acceptable Use Policy (AUP) is designed to ensure that the Network is used equitably by all users so as to create an online community where all users enjoy a high-quality Service. The AUP sets out obligations and restrictions for users while they are using Provider's Internet Service. Provider reserves the right to limit and/or suspend its Internet Service to Customers who breach the AUP. Customers will remain legally responsible for their actions when using Provider's Internet Service and Customers will indemnify Provider for any loss incurred by Provider or any third party (or other users) due to the Customer's action.

8.2 AUP obligations and restrictions:

- (a) Customers will ensure that their Network usage does not adversely impact on Provider's ability to provide Services to other Customers and the ability of other Customers to access and use the network.
- (b) Customers will not flood Provider's Network, launch denial of Service attacks, overload a Service or impair Provider's ability to provide an Services.
- (c) Provider reserves the right to use network management tools to ensure that all users have equitable access and network usage rights. Provider also reserves the right to limit and/or suspend its Service to Customers who misuse their Network usage obligations. Provider may also terminate Users' sessions if they have been continuously online for a considerable period of time.
- (d) Customers will take all practicable steps to ensure that they do not transmit, receive or view objectionable, illegal, defamatory or restricted content. Provider acknowledges that some content may be restricted to adults over 18 years of age. It is the Users' responsibility to ensure that such content is not available to minors and others entities that it was not intended for.
- (e) Customers will not attempt to gain unauthorised access to any other computers, networks, electronic storage/retrieval systems, or any other communications equipment on Provider's Network or any other network.
- (f) Customers will not modify, alter, delete or edit content unless they either have explicit written authority or consent to do so or the content belongs to them.
- (g) Customers will not transmit or post viruses and other harmful code over the Provider Network.
- (h) Users will not send spam, junk email or any other unsolicited material over the Provider Network. Please note that sending viruses, spam and other junk email may be illegal under New Zealand and Australian Law. It is the Customers' responsibility to secure their usernames and passwords. Customers will also be responsible for their own identity and password security by organising their own antivirus, spam or junk email filter, firewalls and pop up blockers.
- (i) Customers will not distribute, download or transmit password guessing programs, unauthorised keystroke loggers, password gatherers, cracking tools, Trojan horses, spyware,

adware or any other illicit programs.

(j) Users will not attempt to ascertain private information about third parties without their knowledge and consent.

(k) Customers will not attempt to impersonate any person or entity, forge any persons or entities signatures, or perform any fraudulent activities.

(l) Users will comply with copyrights, trademarks and intellectual property rights of other people or entities.

(m) Users will not attempt to plagiarise, download, transmit or distribute content that infringes other peoples/entities intellectual property rights, trademarks or copyrights.

(n) Customers will not resell Provider's Services, add accounts or share the Services between more than one household or business without written permission from Provider.

(o) Provider's instructions, advertising, promotional and other material will remain Provider's copyright and unauthorised copying or distribution of this material is prohibited. As part of Provider's Service we may use or display our partner companies' trademarks and copyrights. Provider acknowledges that these trademarks and copyrights remain the property of their owners. Although Provider has no obligation to monitor the Network and/or Internet Service, Provider, its partners and suppliers reserve the right at any time to monitor content, bandwidth, network usage and transmissions from time to time to operate the Services; to identify violations of this Policy; and/or to protect the Network, Services and other users.

9) Suspension or Disconnection of Services

9.1 If the Customer does not meet all or any of its obligations under these Terms and Conditions Provider may suspend or disconnect the Customer from Provider's Network or discontinue any other services that Provider provides to the Customer.

9.2 Provider may suspend or disconnect the Customer from the Services if another carrier suspends or interrupts Provider's Service and that suspension or interruption affects Provider's ability to provide its Services to the Customer.

9.3 Provider may suspend or restrict a Service in an emergency or whenever Provider, another carrier, or any other appropriate person considers that step necessary or reasonable to protect persons, systems or other property.

9.4 In the event that the Customer is suspended or disconnected from Provider's Network for failing to meet any of its responsibilities under these Customer Terms, the Customer may be required to pay a recommencement fee before it can use Provider's Network again. All costs and expenses of or incurred by Provider as a result of suspension or disconnection by the Customer and any recommencement shall be payable by the Customer upon demand by Provider.

9.5 Normal charges, as outlined in Provider's price list, will continue to apply during the Customer's suspension or disconnection from Provider's Network.

10) Warranty and Liability

10.1 Residential Customers: If the Customer is a residential customer and the Services are not being 'supplied or acquired in trade' (Residential Customer) within the meanings of the Fair Trading Act 1986 and the Consumer Guarantees Act 1993 (the Consumer Protection Legislation), the Customer may have rights under the Consumer Protection Legislation in addition to those rights set out in these Customer Terms. These Customer Terms will apply subject to the provisions of the Consumer Protection Legislation.

10.2 Business Customers: If the Customer is not a Residential Customer (a Business Customer), then the Business Customer acknowledges and agrees that the provisions of the Consumer Guarantees Act 1993 and sections 9, 12A, and 13 of the Fair Trading Act 1986 will not apply to these Customer Terms and that it is fair and reasonable to exclude their application.

10.3 Indemnity: The Customer will indemnify Provider (including its Affiliates) against all liabilities, costs (including full costs between solicitor and client), losses, claims or demands incurred by Provider arising out of or incidental to any of the Services or these Customer Terms. The Customer also agrees to indemnify Provider (including its Affiliates) against all liabilities incurred by the Customer due to viruses, spam, junk emails and hacking/ disruptive activities caused by a User.

10.4 No representations: Except to the extent specifically stated under these Customer Terms or as required by law, Provider (including its Affiliates) makes no representation and gives no assurance, condition or warranty of any kind to the Customer in relation to the Services provided to the Customer (whether express, implied or whenever arising) whether originating in statute, law, trade, custom or otherwise that would apply if it were not for this clause.

10.5 Exclusion of all other Liability: To the maximum extent permitted by law, Provider and its Affiliates will not be liable to the Customer for any loss of profit, loss of bargain, loss of business opportunity or exemplary damages or losses suffered by the Customer arising out of or flowing from any breach of contract, any pre-contractual misrepresentation or other dispute arising out of these terms and whether actionable in contract, tort (including negligence), equity or otherwise. For the avoidance of doubt, if Provider's Services fail to operate for any reason and the Customer uses different services provided by another provider, Provider will not be responsible for that provider's charges. This exclusion of liability applies whether or not Provider's agreement with the Customer has ended and regardless of the type of damage the Customer suffers or howsoever it was caused.

10.6 Copyright and related exclusions: To the maximum extent permitted by law, the Customer agrees that Provider will not be liable for any:

- (a) copyright infringement by a User; or
- (b) unauthorised access to or alteration of the Customer's communications or data by any third party; or
- (c) material or data sent or received (or not sent or received); or
- (d) transaction entered into by a User through use of the Services; or
- (e) threatening, defamatory, obscene, offensive or illegal content or conduct of any other party or any infringement of another's rights, including intellectual property rights; or
- (f) any content sent using, or included in, Provider's Services by any third party.

11) Limitation of Liability

11.1 If Provider (or any of its Affiliates) are found liable to the Customer for any direct losses arising from Provider's breach of this Agreement or for Provider's negligence despite the provisions of clause 10, Provider's (including its Affiliates) obligation to pay damages or losses is limited to \$5,000 for one incident or \$10,000 for a number of incidents within any 12 month period provided that the Customer notifies Provider of its claim within 3 months following date of the relevant event or series of events becoming reasonably discoverable to the Customer.

11.2 Provider (including its Affiliates) will not be liable for any loss caused by any User or any loss that results from the User's failure to take reasonable steps to avoid or minimise loss.

11.3 To the extent that the Customer is a residential customer, the Customer's liability to Provider for a breach of these Customer Terms or a Customer's negligence is limited to \$5,000 for one incident or

\$10,000 for a number of incidents within any 12 month period. This limitation does not apply to the Customer's obligations to pay any outstanding amounts payable under these Customer Terms or for any loss or damage caused by fraud, wilful breach or wilful damage.

11.4 The limitations in this clause 11 will not limit any rights the Customer may have under the Consumer Protection Legislation.

12) Force Majeure

12.1 Failure by either party to perform its obligations under these Customer Terms due to a Force Majeure event shall not be a breach of those obligations, and the obligations of both parties shall be suspended during the currency of the Force Majeure event.

12.2 For the purpose of this clause 12, Force Majeure means any act of God or act of nature, strike, lockout, work stoppage or other labour hindrance, confiscation or expropriation, embargo, electrical supply failure, fire, smoke damage, flood, water damage, ice, explosion, nuclear accident, sabotage, revolution, riot, act of war whether declared or not, warlike operations, any act or terrorism, requirement or restriction of governmental authorities, land slide, earthquake, epidemic, quarantine restriction, and any cause beyond the reasonable control of the Customer or Provider preventing either of them performing their obligations under these Customer Terms.

12.3 Neither party shall be entitled to the benefit of this clause to the extent that the failure was caused by the party's negligence or contributory negligence or if the failure was caused by a shortage or lack of money.

12.4 The party claiming the benefit of this clause shall give notice as soon as possible after the Force Majeure event or condition or cause has ceased or been remedied that it is in a position to resume the performance of its duties and obligations.

13) Privacy and Personal Information

13.1 Services are provided in accordance with Our Privacy Policy available on Our website.

13.3 We may be required to pass relevant service information onto our Affiliates. If the Customer does not provide that information then Provider and/or the Affiliate may not be able to provide its Services to the Customer. Our Affiliates comply with the New Zealand Privacy Act 2020 and the Australian Privacy Act 1988 and may use your information in the following ways:

- to verify your identity
- to provide services and products to You
- to improve the Services Provided to You
- to undertake credit checks of You (if necessary)
- to respond to communications from You, including a complaint
- to conduct research and statistical analysis (on an anonymised basis)
- to protect and/or enforce the Affiliates legal rights and interests, including defending any claim
- for any other purpose authorised by you or the Laws of Australia and New Zealand
- for general administrative and business purposes

13.4 Our Affiliates may Disclose information in the following ways:

- another company within the Affiliates group
- any business that supports the Affiliates services and products, including any person that hosts or maintains any underlying IT system or data centre that the Affiliates use to provide the Affiliates Website or other Services and upstream suppliers
- other network operators to enable you to make and receive calls through other networks, and so the Affiliates can transfer numbers from one operator to another
- a credit reference agency for the purpose of credit checking you
- debt collection agencies
- other third parties (for anonymised statistical information)
- a person who can require the Affiliates to supply your personal information (e.g. a regulatory authority)
- any other person authorised by the Privacy Acts of New Zealand or Australia, and or another law (e.g. a law enforcement agency)
- any other person authorised by you

13.5 A business that supports the Affiliates services and products may be located outside New Zealand or Australia. This may mean your personal information is held and processed outside New Zealand and Australia.

13.6 Where the Australian Privacy Act 1988 (Cth) applies, unless the Affiliates have your consent, or unless an exception under the Australian Privacy Principles applies, the Affiliates will only disclose your personal information to overseas recipients where the Affiliates have taken reasonable steps to ensure that the overseas recipient does not breach the Australian Privacy Principles in relation to your personal information.

13.7 Under New Zealand Privacy Act 2020 principles if a jurisdiction does not offer similar protections to New Zealand, the individual concerned will be fully informed that their information may not be adequately protected and must expressly authorise the disclosure.

14) Electronic Communications and Email

14.1 The Customer agrees that during the term of these Customer Terms, there is an on-going business relationship between Provider and the Customer. The Customer gives Provider and its officer's explicit consent and permission to communicate with the Customer at a nominated email address with regard to the Services and any related services provided by Provider or its Affiliates. The Customer may request that email communications be directed to a different address, and Provider undertakes to change its records for all future email communications in a timely manner.

15) Other Terms

15.1 Other terms may apply to some of the Services provided by Provider. At such time as appropriate Provider will advise the Customer of these terms and conditions in writing.

16) Notices

16.1 Any written notice required to be given to Provider must be sent to the address below and shall be deemed to be received within two Working Days of posting, or immediately if transmission is electronically. Any notice given on a non-Working Day or after 5:00pm on a Working Day shall be deemed to have been given at the commencement of the next Working Day.

CompuHubNZ Ltd
<INSERT COMPANY POSTAL ADDRESS>
<INSERT COMPANY EMAIL>
Attention: Customer Service Manager

16.2 If the Customer changes address or moves premises, it must inform Provider of this event in writing so that Provider can ensure there is no interruption in its supply of Services to the Customer. If the Customer does not inform Provider of this event, it may not be able to ensure the continuous supply of our Services to the Customer.

16.3 The Customer agrees that all agreements, notices, disclosures and other communications that Provider provide to the Customer electronically satisfy any legal requirement that such communications be in writing.

16.4 The Customer agrees that any electronic communication from the Customer will be taken to be received by Provider at the time that that electronic communication comes to Provider's attention.

17) Term and Termination

17.1 Term: These Customer Terms will come into effect on the earlier of:

- (a) the date that is signed by the Customer; or
- (b) the Customer using or accessing the Services, and will continue in full force and effect unless terminated in accordance with this clause 17.

17.2 Provider Termination: Provider may terminate these Customer Terms and may restrict, suspend, or cancel the Services:

- (a) immediately without notice;
- (b) if the Customer fails to pay any invoices within 60 days or fails to meet its responsibilities to Provider under these Customer Terms; or
- (c) for the health and safety of any person or the safety and security of the Network;

17.3 No release: Termination of these Customer Terms by Provider shall not release the Customer from any outstanding obligations or responsibilities that it has to Provider.

17.4 Rights on termination: On termination of these Customer Terms, Provider will cease providing its Services to the Customer and all amounts which the Customer owe to Provider will immediately become due and payable. Provider shall not be liable to the Customer for any loss or damage suffered, or claimed to have been suffered, by the Customer on or following termination of the supply of Provider's Services to the Customer.

17.5 Customer Termination:

- (a) The Customer may terminate these Customer Terms by providing Provider with one month's written notice to the address provided in clause 16.
- (b) Termination by the Customer may be subject to any additional terms, which may have been agreed to as part of an application completed via telephone as outlined in clause 2.2.

(c) In the case that the Customer is bound to a minimum term period, a disconnection fee may apply if the Customer wishes to disconnect prior to the end of the minimum term. The Customer may not transfer its responsibilities under these Customer Terms to anyone else.

17.6 Consequences of Termination: If either party terminates the Services or these Customer Terms during a billing period, any applicable charges for that period remain payable. Provider will not refund a pro-rata portion of any minimum monthly fee paid in advance.

17.7 Insolvency: Notwithstanding this clause 17, if the Customer fails to pay any monies, commits any act of bankruptcy, or being a company does any act which would render it liable to be wound up or have a receiver appointed over its property, Provider may (without prejudice to any other remedies available to it) suspend or terminate these Customer Terms and the proportion of the monies owed will fall immediately due and payable. The Customer shall pay any costs incurred by Provider in relation to such termination.

18) Intellectual Property

18.1 Ownership of all intellectual property rights in respect of all documents, technical specifications, design drawings, charts, plans and software relating to the Service shall belong to Provider.

19) Dispute Resolution

19.1 In the event of a dispute between the parties in relation to these Customer Terms, the Customer shall first seek to resolve such dispute by contacting Provider's Helpdesk. If the Helpdesk is not able to resolve the Customer's concerns the matter will be escalated to the Customer Services Manager.

20) General

20.1 Assignment:

- (a) Provider may assign or transfer its rights and responsibilities under this Customer Terms to another party. Provider will provide the Customer with written notice in advance if it intends to do this.
- (b) Provider may subcontract the performance of any of its obligations and responsibilities under this Customer Terms to a third party.
- (c) The Customer may not assign or transfer any of its rights or responsibilities under these Customer Terms to anyone without Provider's prior written consent.

20.2 Invalid Clauses: If any provision or part of these Customer Terms is held to be invalid, unenforceable or illegal for any reason, these Customer Terms will be deemed to be amended by the addition or deletion of wording as appropriate to remove the invalid, unenforceable or illegal provision or part, but otherwise to retain the provision and other provision of these Customer Terms to the maximum extent permissible under applicable law.

20.3 Waiver:

- (a) No delay, neglect or forbearance by a Provider in enforcing against the other any provision of these Customer Terms will be a waiver, or in any way prejudice any right, of that party.
- (b) None of the provisions of these Customer Terms will be considered to be waived by Provider except when such waiver is given in writing.
- (c) No waiver by Provider of any breach will be deemed a waiver of any continuing or reoccurring breach, unless it is expressly agreed to be so in writing by Provider.

20.4 Relationship:

- (a) The parties will perform their respective obligations under these Customer Terms as independent contractors to each other.
- (b) Nothing in these Customer Terms will create, constitute or evidence any partnership, joint venture, agency, trust or employer/employee relationship between the parties, and neither party may make or allow to be made, any representation that any such relationship exists between the parties.
- (c) Neither party will have the authority to act for, or incur any obligation on behalf of, the other party, except as expressly provided for in this agreement.

20.5 Survivorship: Termination of these Customer Terms for any reason will not affect such rights and obligations of the parties as are intended to survive the termination.

20.6 New Zealand and Australian Law Applies: These Customer Terms are governed by the laws of New Zealand and Australia and the parties submit to the exclusive jurisdiction of the relevant courts in respect of all matters relating to this Agreement.

20.7 Emergency Calling Code. You accept that our VoIP services are non-complaint under the Emergency Calling Code (NZ). Provider will use all means possible to process all emergency calls, non-compliance in this instance means that access to emergency service call can't be guaranteed in the event of a power failure, service suspension or a Force Majeure event.

21) Maintenance

21.1 You acknowledge and agree that there is an outage period every week that will be reserved for Provider network maintenance. During this time You may find that Your Services experience disruptions and breaks. Provider reserves the right to make unavailable any and/or all Services and other network components during this time where maintenance is necessary and aims to keep service disruptions and breaks to a minimum where possible. The nominated timeframe will be static and exact. No outage will continue past the closing period of this time frame and any instance of this will be treated as a critical priority job. The current details of this time frame are as set out in clause 21.2 (which may be changed by Provider from time to time)

21.2 The weekly maintenance period is currently and until further notice or specified otherwise be held starting Monday morning 0100 hours (1 AM) until Monday morning 0500 hours (5 AM) New Zealand local time.

22) 3CX Term and Renewal

22.1 Provider's 3CX Service is renewed on an opt out basis, with notice of intent to cancel required at least 15 days prior to license expiry. Provider will notify you 60, 30 and 15 days prior to 3CX license expiry. If no explicit request is made in writing to cancel the Service, or a written conversation entered into regarding adjusting the terms of your agreement, your service will be renewed on the same terms for an additional 12 months.

22.2 Service will not be provided past the 3CX license expiry date. If a difference exists between the Provider contracted period and the 3CX license expiry, the 3CX license expiry date will be taken as the authoritative date.

23) Unlimited Calling

23.1 Unlimited calling applies to Australian and New Zealand landlines and mobiles, along with outbound 1300 calls only and is intended for person to person calls only. Calls to other destinations or Premium or Special numbers will be charged at the applicable rate.

23.2 Where usage is deemed by Provider as continuously excessive, unreasonable or impacting on other Customers, Provider reserves the right to change pricing, and/or temporarily suspend Services.

23.3 Provider reserves the right to modify pricing, temporarily suspend or terminate with immediate effect when Services are used for unintended purposes such as Outbound Call Centres, Telemarketing, Auto-dialling, Wholesale Service Gateway, or any other activity Provider deems as non-suitable.

23.4 Provider reserves the right to discontinue this Service at its discretion.