



Master Services Agreement

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Master Services Agreement

1. Parties

The terms and conditions of this Master Services Agreement apply between Vonex Telecom ABN 45 147 537 871 (We, Us or Our) and the Customer (You).

2. About this Master Services Agreement

The terms of this Master Services Agreement shall apply to all Services We provide to You from the date You sign any Service Order Form with Us, unless we both agree in writing to variations to the Master Services Agreement. These Terms and Conditions supersede all previous arrangements, written or implied.

2.1 Our agreement with You consists of the following documents:

- 2.1.1** Any special conditions that both parties have agreed to in writing;
- 2.1.2** Order Forms;
- 2.1.3** Critical Information Summary documents;
- 2.1.4** Individual Service Description & Terms documents; and
- 2.1.5** This Master Services Agreement.

If there is any inconsistency between the above documents, they will be read and applied in the order of precedence set out above.

2.2 Our Agreement with You will not include any purchase order, confirmation, or terms of any other document provided by You.

2.3 The Contract shall be governed by the laws in force in the State of Queensland and each party submits to the exclusive jurisdiction of the Courts of that State.

2.4 This document constitutes the full and entire understanding between the parties in relation to the Service. Any other representations may be contrary to this document and not valid.

2.5 The Customer may only enter into a Contract with Vonex Telecom if they are at least 18 years of age as at the date of the Order.

2.6 The Customer must be authorised to enter into the Contract and although the Customer may choose to appoint an Authorised Representative/s, the Customer acknowledges that the Contract is at all times between Vonex Telecom and the Customer.

2.7 Vonex Telecom reserves the right to refuse an Order, without reason.

2.8 Start of the Agreement

2.8.1 Your Service Order Form constitutes an offer by You to purchase the Service from Us. We may accept or reject Your Service Order Form, or refuse to supply a Service to You. We decide whether to accept your Service Order Form and supply Services to You based on a variety of factors including:

- 2.8.1.1** Your eligibility for the Service;
- 2.8.1.2** Whether the Service is available to You at your location;

- 2.8.1.3** Whether You meet our credit and identification requirements;
- 2.8.1.4** The outcome of any credit assessment we undertake; and
- 2.8.1.5** Your prior history with us or a reseller of any goods or services to You.

2.9 If You terminate an Order after the contract is formed but before the Service is ready for use, We may have incurred costs, including committing to fixed term contracts with Our suppliers. In these circumstances, you may have to pay a Cancellation Fee. This charge will be a reasonable pre-estimate of the costs incurred by us at the time of cancellation and will not exceed the actual expenses we have committed to.

Unless stated on the Service Order Form, billing starts from the Start Date advised in the Service Details.

2.10 Changes to the Agreement

2.10.1 During the term of the Contract, Vonex Telecom may need to change the Terms and Conditions, including fees and charges and plans, due to circumstances beyond its control, including changes in law, urgent changes required for security reasons, changes by a Third Party Supplier of the terms on which they supply services to Vonex Telecom or to the functionality or nature of a service or its underlying technology. Vonex Telecom is therefore not always able to provide the Customer with ongoing supply of a Service on the same Terms and Conditions that existed when Vonex Telecom first commenced providing that Service to the Customer.

2.10.2 In addition to changes which Vonex Telecom are required to make due to circumstances beyond its control, Vonex Telecom may elect to make changes for its own purposes during the term of the Contract.

2.10.3 The Customer acknowledges and agrees that in accordance with clauses 2.10.1 and 2.10.2, from time to time the nature of the Services and the terms on which Vonex Telecom supply those Services may change and that if Vonex Telecom elect to change those terms notice will be given in accordance as follows:

2.10.3.1 Customer Rights if Vonex Telecom change the Contract:

2.10.3.1.1 Subject to the exceptions permitted by clause 2.10.4, Vonex Telecom will give the Customer notice of any proposed changes to the Terms and Conditions of the Contract, at least 21 days prior to the date on which those changes are to take effect.

2.10.3.1.2 Subject to the exceptions permitted by clause 2.10.4, if the proposed changes will cause material detriment to the Customer, for example, the changes will result in a material increase in the fees or materially change the characteristics or functionality of the Service Vonex Telecom initially supplied to the Customer, then the Customer may immediately cancel the affected Service without incurring a Cancellation fee or penalty (provided that Vonex Telecom can recover any outstanding fees incurred up to the date on which the Contract ends and any outstanding amounts that cover Establishment Fees or installation costs or equipment where such equipment can be used in connection with services provided by other suppliers), by giving Vonex Telecom notice in writing to that effect within 21 days of the date of the notice referred to in clause 2.10.3.1.1 above.

2.10.3.1.3 The Customer acknowledges and agrees that if notice is not given to Vonex Telecom within the 21 day period referred to in clause 2.10.3, the Customer is deemed to have accepted the changes from the date those changes are to take effect and that the Terms and Conditions of the Contract, as amended by those changes, will govern the relationship between the Customer and Vonex Telecom from that date.

2.10.4 Exceptions:

2.10.4.1 The Customer acknowledges and agrees that Vonex Telecom's obligation to provide 21 days notice of the proposed changes and to afford the Customer a right to terminate the Contract in accordance with clause 2.10.3 will not apply in relation to:

2.10.4.1.1 Urgent changes Vonex Telecom is required to make by law for security reasons or technical reasons necessary to protect the integrity of its network;

2.10.4.1.2 The introduction of a new fee or an increase in an existing fee due to an additional tax or levy imposed by law; and

2.10.4.1.3 Increases in fees due to increases imposed on Vonex Telecom by Third Party Suppliers.

2.10.4.2 Where practicable to do so, Vonex Telecom will give the Customer reasonable notice of the changes referred to in this clause 2.10.4 in accordance with the notice provisions of clause 4.

3. Customer Obligations

3.1 By entering into a Contract with Vonex Telecom the Customer agrees:

3.1.1 That the plan/s and Service/s selected meet their requirements.

3.1.2 To pay charges as set out on the relevant Order Form.

3.1.3 To acquire all personal computer and communications equipment necessary to use the Service.

3.1.4 Not to assign or otherwise transfer this or the Customer's rights under it, delegate Customer's obligations or re-sell or sub-licence the Service.

3.1.5 To not resell the Service or permit any other person to resell the Service unless expressly permitted by Us. You are not permitted to use the Service in the capacity of a Carrier or Carriage Service Provider without Our express written permission.

3.1.6 To provide Vonex Telecom with a current and active email address and SMS numbers.

3.1.7 To promptly notify Vonex Telecom of any changes to email address, SMS numbers and/or other contact details.

3.1.8 To ensure the Service Details provided by Vonex Telecom (including usernames, passwords and other information required to use the Service) are stored in a secure manner and updated as required.

3.1.9 To promptly notify Vonex Telecom of any Fault in relation to the Service and to provide all necessary assistance to help Vonex Telecom rectify or identify the Fault.

3.1.10 To advise Vonex Telecom in writing in a timely manner of any changes, modifications, conversions, Relocations, Cancellations or Transfers to any Service supplied by Vonex Telecom. Without written advice, Vonex Telecom will continue to provide Services and billing of those Services.

3.1.11 To monitor data usage in alignment with the selected plan to avoid excess data charges, if applicable.

3.1.12 To review the Service and plan offerings available from time to time by contacting Vonex Telecom.

- 3.1.13** The Customer shall be solely responsible for:
- 3.1.13.1** All security measures, non-disclosure of log-in information and back up of any information.
 - 3.1.13.2** All use of the Service.
 - 3.1.13.3** Disclosure or loss of login information that results in access misuse.
- 3.1.14** It is the customer’s responsibility to ensure all representatives and contacts with access to supplied email addresses and Vonex Telecom systems, are authorised by the Customer.

3.2 Failure to Comply

- 3.2.1** If We believe that Your use of the Service is inconsistent with any of the requirements in clause 3.1, We may ask You to cease the activity in question, change the way You use the Service, or change the type of service You receive. If You do not comply with our request immediately, We may take action to ensure that Your use of the Service is compliant, or suspend or terminate the Service.
- 3.2.2** If We believe Your or Your End Users’ use of equipment is not consistent with clause 3.1.3 then We may:
- 3.2.2.1** Disconnect the equipment from the Service; or
 - 3.2.2.2** Suspend or terminate the Service.

4. Notices

- 4.1** All notices to be served to Vonex Customers shall be in writing and shall be sent by hand delivery, post or electronically to Customers at their respective SMS number, billing or email addresses as supplied. The notices to Customers are deemed to be received as below:

SMS/Text Message	Date of Delivery, unless a delivery failure reply is received.
Email	Date email is sent, if the senders email system doesn’t receive a delivery failure reply.
Mail	2 business days from date of posting if registered, or 4 days otherwise.

5. Fees & Charges

- 5.1** The Customer is responsible for and agrees to pay for all Service fees and charges as outlined in the Service Description and Terms document and/or the relevant Order Form.
- 5.2** The Customer agrees to pay all Service fees and charges within 14 days of the invoice issue date, unless different terms of trade are stated on the invoice in line with individual Service Description and Terms and/or the relevant Order Form.
- 5.3** Customer Premises Equipment (CPE) purchased from Vonex Telecom requires payment prior to collection or dispatch, unless previously agreed between the Customer and Vonex Telecom.
- 5.4** All fees and charges are quoted and charged in Australian Dollars and include Goods and Services Tax (GST) unless documented otherwise.

- 5.5** Service fees and charges and the Contract Term (where applicable) commence from the Start Date of the Service as advised by Vonex Telecom, not when the Customer first uses the Service or attempts to use the Service. Should the Start Date be disputed for any reason Vonex Telecom must be informed in writing within 10 days of the said Start Date or no claim or billing change will be considered.
- 5.6** Unless agreed prior in writing individual Services ordered at one time, or elements of a discounted bundle of Services shall be billed from their respective Start Dates as advised by Vonex Telecom.
- 5.7** Customers who ordered discounted Bundled services but are not being supplied &/or billed all bundle elements will have the active plans modified to standard rates without notice by Vonex Telecom.
- 5.8** Vonex Telecom reserves the right to change pricing and/or plans and to withdraw plans and/or Services by providing 21 days written notice to the Customer.
- 5.9** Vonex Telecom may apply a fee for processing payments by Credit Card.
- 5.10** Vonex Telecom may pay a referral fee or commission to any of its employees, agents, contractors or other representatives of Vonex Telecom in connection with the Contract.

6. Billing

- 6.1** Vonex Telecom will provide a Tax Invoice for the Service/s, unless otherwise specified in the Product Terms and Conditions, Order or by Vonex Telecom. Mailing of paper invoices if requested will attract a surcharge per invoice.
- 6.2** By providing direct debit details, the Customer authorises Vonex Telecom to process payments once the invoice is raised for any and all charges associated with the Service/s as outlined on the relevant invoice/s.
 - 6.2.1** The Customer understands and agrees that direct debits may be processed immediately on invoice and not after 10 business days as described in the 2019 Telecommunications Consumer Protections Code.
- 6.3** By providing credit card details, the Credit Cardholder and/or the Customer authorises Vonex Telecom to process payments to that card immediately once the invoice is raised for any and all charges associated with the Service/s as outlined on the relevant invoice/s and described in these Terms and Conditions.
- 6.4** The Customer must advise Vonex Telecom immediately of any changes of direct debit account details. Should the payment be declined Vonex Telecom will attempt to contact the Customer advising of same. A direct debit dishonour fee may apply.
- 6.5** Where an account becomes overdue, Vonex Telecom will attempt to provide notice to the Customer by means of email and/or SMS. Such notices outline the process with regard to overdue accounts.
- 6.6** Vonex Telecom reserves the right to disable, interrupt, restrict or cancel any and all services under an account, without liability, in the event that:
 - 6.6.1** The account becomes overdue and the Customer fails to pay the amount overdue within the period stated in the notice.
 - 6.6.2** The Customer appoints an external administrator, becomes bankrupt, insolvent or appears likely to do so and we have reasonable belief that it is unlikely that we will receive or retain amounts due and payable.
- 6.7** Services interrupted or disabled due to non-payment may be subject to a re-enable fee for each Service billed on the account in addition to full payment of the balance due on the account.

- 6.8** All overdue accounts that have not been paid in full may be sent to a debt collection agency. Should this occur and re-provision of Service/s is subsequently required, an administration fee is payable, together with the Vonex Telecom re-enable fee/s and a new Service Establishment Fee (where applicable). A new Order may be required as notified to the Customer by Vonex Telecom. Vonex Telecom also reserves the right to recover the outstanding payment through legal action.
- 6.9** Vonex Telecom reserves the right to insist on direct or credit card payment only for any Product of Service. All accounts with a monthly billing amount of less than \$500 (five hundred dollars) are required to pay via direct debit or credit card. For any products or services that include a financing component, payment must be made via direct debit from a bank account.
- 6.9.1** Any exception to the requirements outlined in 6.9 above will be granted solely at the discretion of Vonex Telecom. Vonex Telecom reserves the right to review and revoke any granted exceptions at any time.
- 6.10** Vonex Telecom reserves the right to refuse service based on credit history, or at its absolute discretion, without reason.
- 6.11** Vonex Telecom reserves the right to correct and re-invoice a billing error / missed charges for a period of 6 months.
- 6.12** Credits applied to a Customer's account may remain on the existing account in order to offset future charges or may be refunded as deemed appropriate by Vonex Telecom.
- 6.13** Customers can claim a refund for credits on their account – up to 6 months from cancellation of all services, at which point any right to a refund is waived by the customer. Any credits provided as incentives or goodwill gesture are not refundable at any time.
- 6.14** Any billing disputes must be submitted in writing within six months from the invoice date. After this period, the charges will be deemed accurate and accepted by the customer, and no further claims or disputes relating to such charges will be considered, except to the extent required by law.
- 6.15** If We incur costs in recovering overdue amounts from You, including (without limitation) mercantile agents' costs, disconnection of services costs, costs incurred in commencing legal action such as service fees and search fees, we reserve the right to recover these amounts from you in addition to the overdue amounts.
- 6.16** The Customer agrees to pay any interest or late payment fees that may be imposed by Vonex Telecom, at its sole discretion, on overdue payments and accounts.

7. Financial Hardship Policy

- 7.1** The Customer acknowledges and accepts the Vonex Telecom Financial Hardship Policy available at www.vonex.com.au/policies

8. Contract Term / Cancellation of the Service

- 8.1** Where a Contract Term is applicable, the Customer is liable for charges for the duration of the Contract Term, from the Start Date of the Service as set out in the Service Description and Terms and/or Order Form.
- 8.2** If the Service is not cancelled at the end of the Contract Term, Vonex Telecom will continue to provide the Service on a month-to-month basis in accordance with the Service Description and Terms.
- 8.3** If the Customer does not wish to continue to use the Service on a month-to-month basis after the end of the Contract Term, the Customer must provide a written Cancellation request and the applicable notice period for cancellation must be provided.

- 8.4** An Early Termination Fee may be payable for Cancellation of a Service prior to the Contract End Date as set out in the Service Description and Terms.
- 8.5** Request for Cancellation of a Service must be submitted by the Customer to Vonex Telecom in writing giving Vonex Telecom the required notice period as outlined in the Service Description and Terms. The Customer is responsible for all fees and charges until such time as Cancellation of the Service is complete.
- 8.6** When the Customer notifies Vonex Telecom that they wish to cancel the Service, the monthly access fee, for the month in which the Service is cancelled, will be applicable, except when individual Service Description and Terms state otherwise.
- 8.7** Where applicable, Cancellation of a service immediately cancels any further use of IP addresses supplied as part of those Service/s. Vonex Telecom grants the Customer a limited, revocable, non-transferable licence to use certain IP addresses allocated to Vonex Telecom, as determined by Vonex Telecom from time to time, during the Term only, for the sole purpose of receiving the Service/s.

9. Network Maintenance

- 9.1** We may conduct maintenance on the Network. We aim to schedule Network maintenance outside normal Business Hours, but may not be able to do so.
- 9.2** Maintenance may also be conducted by Our suppliers on supplier network(s) used to supply the Service. You understand and accept that We have no control over network maintenance conducted on supplier's networks.
- 9.3** Monitoring and Fault reporting
 - 9.3.1** We use monitoring tools and notification systems to track the status of networks that the Service may be provided upon, however We do not guarantee that We will be able to detect every fault.
 - 9.3.2** We will provide a fault notification system for You to report faults to Us during Business Hours.
 - 9.3.3** Before You report a fault to Us, You will take all reasonable measures to confirm that the fault is not caused by equipment that We are not responsible for.
- 9.4** Fault rectification
 - 9.4.1** We repair faults within Our Network.
 - 9.4.2** We are not responsible for repairing faults that arise in or are caused by:
 - 9.4.2.1** A Supplier's network;
 - 9.4.2.2** Equipment that We are not responsible for, such as Customer Provided Equipment;
 - 9.4.2.3** Cabling or copper-based services beyond the main distribution frame;
 - 9.4.2.4** Any network unit, facility, transit point, terminal or other infrastructure or equipment that is outside Our control.
 - 9.4.3** If We are aware of a fault which occurs in or is caused by a supplier's network, We will notify the supplier of the fault and request prompt rectification of that fault, but we are not responsible and will not bear any liability or responsibility for such fault.

9.4.4 If a fault described in clause 9.4.2 above arises, We are not responsible for fixing that fault.

If a fault which we are responsible for results in a significant loss of Your access to or use of the Service, You may be entitled to claim a rebate under a Service Level Agreement.

9.5 Extended Unavailability

9.5.1 If a fault which we are responsible for results in a significant loss of Your access to or use of the Service, You may be entitled to claim a rebate under a Service Level Agreement. In some circumstances You may also be entitled to terminate the Service.

10. Technical Support

10.1 Vonex Telecom technical support is provided by telephone and website chat support pages. On-site technical support is available pending management approval, and charges may apply.

10.2 The Customer understands and accepts that when receiving technical support from Vonex Telecom or its representatives, damage may be caused to computer software, hardware or data and may invalidate the computer warranty. The Customer should back up all existing files before seeking technical support as Vonex Telecom does not accept any responsibility or liability for any loss or damage, even if the loss or damage is caused by a negligent act or omission of Vonex Telecom and/or its representatives.

10.3 Upon Complete Provisioning of all new Services, Vonex Telecom shall provide the Customer with the Service Details, including the technical support level and relevant contact details.

10.4 All Vonex Telecom products include the following technical support as per relevant Service Description and Terms documents.

10.4.1 Technical Support

Description	Residential Customer Support
Hours Available	Monday - Friday 8:00am-8:00pm AEDT Saturday & Sunday 8:00am-6:00pm AEDT Excludes National Public Holidays
Response Target	4 hour response target – phone and email
Contact Details	Ph: 1300 731 048 E: residential@vonex.com.au
Availability	Included with Vonex Residential Services
Details and Charges	Free Technical Support by live chat, telephone or email.

Description	Business Customer Support
Hours Available	Monday - Friday 8:00am-8:00pm AEDT Saturday & Sunday 8:00am-6:00pm AEDT Excludes National Public Holidays
Response Target	4 hour response target – phone and email
Contact Details	Ph: 1800 826 668 E: business-support@vonex.com.au
Availability	Included with all Vonex Business Services
Details and Charges	Free Technical Support by live chat, telephone or email and at specified Vonex Telecom office by appointment only. Consultancy Services available per Consultancy Fees.

10.4.2 Network Operations Centre (NOC)

Description	Enterprise Customers and Escalations
Staff	Network Operations Centre (NOC) and Systems/ Network Engineers as required
Technical Support Hours	
Hours Available	24x7x365
Response Target	1 hour response target
Contact Details	Provided with Service Details
Availability	Specific products supported as per Critical Information Summary.
Details and Charges	Free Technical Support by telephone or email and at specified Vonex Telecom office by appointment only during Vonex business hours. Consultancy Services available per Consultancy Fees, including after hours.

10.5 On-site Technical Support

- 10.5.1** From time to time a representative of Vonex Telecom and/or Third Party Supplier may be required to access the Customer's premises. Where on-site access is required, the Customer consents to such access and agrees to provide the representative of Vonex Telecom and/or Third Party Supplier with safe access to the premises.
- 10.5.2** The Customer must ensure that a person of at least 18 years of age is present for the duration of the on-site services.
- 10.5.3** If the Customer does not own the premises and/or equipment within the premises the Customer must obtain the owner's permission for the representative of Vonex Telecom and/or Third Party Supplier to access the premises/equipment.
- 10.5.4** An incorrect call-out fee may apply if the Customer's privately maintained equipment (any equipment beyond the first termination point that is not maintained by the carrier) and/or in-building cabling is shown to be at fault.

10.6 Virus and Spam Filtering

- 10.6.1** The customer acknowledges that Vonex Telecom uses automated processes to attempt to identify Viruses and Spam via incoming email to Supplier owned domains (such as Vonex.com.au and OntheNet.com.au). This process involves software making a decision about whether or not an item of email is undesirable and as a consequence will occasionally result in:
- 10.6.1.1** Some emails being rejected / deleted.
 - 10.6.1.2** Some undesirable emails / viruses being permitted.
 - 10.6.1.3** To the full extent permitted by law, under no circumstances will Vonex Telecom, any related entities or any Third Party Supplier engaged by Vonex Telecom be liable to the Customer or any other person for any direct, indirect, incidental, special or consequential damages, expenses, costs, profits, lost savings or earnings, lost or corrupted data, or other liability arising out of, or related to, the on-site Technical Support provided by Vonex Telecom or a Third Party Supplier engaged by Vonex Telecom.

11. Service Level Agreements

A Service Level Agreement may be applicable to Your Service.

- 11.1** If a Service Level Agreement applies to Your Service, We list it in Your Service Description and Terms document or Order Form.
- 11.2** In the event that We fail to meet a Service Level through any act, omission, or negligence, our liability to you is limited to a Service Rebate in accordance with the terms of the relevant Service Level Agreement.
- 11.3** Subject to any applicable laws to the contrary which cannot be excluded, Our obligation to issue Service Rebates to You is the full extent of Our liability and Your sole and exclusive remedy in respect of any failure by Us to meet Our obligations under a Service Level Agreement. Some events will not be a breach of a Service Level Agreement
- 11.4** Unless the relevant Service Level Agreement expressly and specifically modifies this clause, We will have met a Service Level Agreement even if Services Levels are not met, if Service Levels are not met because of reasons substantially attributable to the following:
 - 11.4.1** Circumstances or events caused or contributed to by You or Your Representatives, including removing or disconnecting any equipment, or conditions present on Your premises (dust, rodents, water, lightning, etc.).
 - 11.4.2** Equipment that We are not responsible for (including Customer Premises Equipment) that You use in connection with the Service.
 - 11.4.3** Circumstances or events which are substantially or entirely beyond Our reasonable control (e.g. Failures by carrier partners, DDoS attacks).
 - 11.4.4** Necessary scheduled or unscheduled maintenance.
 - 11.4.5** You have failed to comply with this Agreement, another agreement with any entity in the Vonex Telecom Group or Our reasonable directions in relation to the Service.
 - 11.4.6** Any other reason specified in Your Service Level Agreement.

Service Rebates will not exceed amounts payable.

- 11.5** A Service Rebate cannot exceed the total amount of the fees for Your Service during the relevant Billing Period when the event giving rise to the Service Rebate is alleged to have occurred.

How to claim a Service Rebate.

- 11.6** Unless specified otherwise in Your Service Description, if You believe that We have breached a relevant Service Level Agreement, You must notify Us in writing that You intend to claim a Service Rebate.

Your notification should include:

- 11.6.1** A description of the event that You believe breached the Service Level Agreement;
- 11.6.2** The date and time of the event;
- 11.6.3** Any other information such as helpdesk ticket numbers which helps Us confirm that a breach of the Service Level.

Agreement occurred.

- 11.7** If You do not notify Us that You wish to claim a Service Rebate within 90 days of the event which allegedly breaches the Service Level Agreement then You have waived Your right to receive a Service Rebate.

12. Customer Premises Equipment (CPE)

- 12.1** CPE is not included by default with Vonex Telecom Services, however, the Customer may purchase CPE from Vonex Telecom for use in relation to the Service.
- 12.2** To purchase CPE from Vonex Telecom the Customer must have or be ordering a Vonex Telecom Service.
- 12.3** The Customer is responsible for ensuring CPE is appropriate and adequate for the intended purpose.
- 12.4** All CPE must comply with Australian telecommunications standards.
- 12.5** Ownership and subsequent risk for the CPE purchased from Vonex Telecom transfers to the Customer on payment for the goods.
- 12.6** CPE purchased from Vonex Telecom includes a manufacturer's warranty. In the event CPE purchased from Vonex Telecom fails for any reason it is the Customer's responsibility to return the CPE to the manufacturer or Vonex Telecom as directed, for repairs and/or replacement as per the conditions of the manufacturer's warranty.
- 12.7** Vonex Telecom have a set level of loan CPE which may be provided to Customers at the discretion of Vonex Telecom. Loan stock may not always be available. Loan CPE is available for a set duration; an invoice will be raised for the replacement value of the loan CPE and is credited on return of the loan CPE (if returned within set duration in suitable condition). Should the CPE be returned to Vonex Telecom outside the set duration period, or not in a suitable condition, the charges per the loan CPE invoice are due and payable immediately. It is at the discretion of Vonex Telecom if a credit will be applied for the loan CPE charges if hardware is subsequently returned.
- 12.8** If the Customer requests to return CPE purchased from Vonex Telecom it is at Vonex Telecom's discretion to accept the return or exchange of the equipment. If Vonex Telecom choose to receive the equipment it is to be returned in an undamaged, complete condition within 10 days of original receipt by the Customer. A restocking fee may apply.
- 12.9** No CPE supplied by Vonex Telecom includes ongoing Management of that hardware.
- 12.10** Technical Support for telephone handsets is only provided for handsets supplied by Vonex Telecom.

13. Privacy Statement

- 13.1** The Customer acknowledges and accepts the Vonex Telecom Privacy Statement available at www.vonex.com.au/policies.

14. Complaint Handling

- 14.1** The Customer acknowledges and accepts the Vonex Telecom Complaint Handling Process available at www.vonex.com.au/policies.

15. Limitation of Liability

- 15.1** The Customer acknowledges and agrees that, to the extent permitted by law, Vonex Telecom will not be liable to the Customer for any loss of revenue, loss of profits, loss of data, loss of use, loss of contracts, loss of sales or damages from failure to supply Services, or for any indirect, economic, special or consequential loss or damages arising out of or in connection with use of the Services regardless of whether liability is based on any breach of contract, tort (including negligence) warranty, statute, or any other basis of liability.
- 15.2** The Customer acknowledges and agrees that all implied terms, conditions and warranties, except for Non-Excludable Terms, are excluded from the Terms and Conditions of the Contract.
- 15.3** The Customer's remedy against Vonex Telecom for breach of any Non-Excludable Term is limited, at the option of Vonex Telecom, to:
- 15.3.1** If the breach relates to goods, replacing, repairing or supplying goods equivalent to, those goods or paying the cost of replacing or repairing them or acquiring equivalent goods; or
 - 15.3.2** If the breach relates to services, re-supplying or paying the cost of re-supplying, those services.
- 15.4** To the extent permitted by law, and subject to clause 15.3 if applicable in the circumstances, Vonex Telecom and its Third Party Suppliers, agents, clients, servants, officers and employees, shall not be liable for any loss incurred by the Customer, whether direct or indirect and regardless of whether liability is based on any breach of contract, tort (including negligence) warranty, statute, or any other basis of liability, by reason of:
- 15.4.1** A Service Outage or non-supply;
 - 15.4.2** The Customer's use or inability to use the Service and/or CPE supplied by Vonex Telecom;
 - 15.4.3** An event of Force Majeure;
 - 15.4.4** An act or default by a Third Party Supplier.
- 15.5** Vonex Telecom does not monitor or control the content and information accessed via the Services and shall not be held responsible in any way for any loss incurred by the Customer as a result of any content or any information accessed via the Service.
- 15.6** Certain Internet content via the Service may contain material, which the Customer may find inappropriate, offensive, inflammatory or adult in nature. Vonex Telecom disclaims any and all liability for the contents of such material.
- 15.7** To the extent permitted by law, and subject to clause 15.3 if it applies in the circumstances, Vonex Telecom's cumulative, aggregate liability (whether in contract, tort (including negligence), under an indemnity or otherwise) under or in connection with each Service is limited to an amount equal to the value of the fees paid by the Customer under the Order at the time the event giving rise to liability occurs.

16. Service Suspension / Cancellation

- 16.1** Vonex Telecom may suspend or cancel the provision of Services without prior notice to the Customer and without Vonex Telecom having liability to the Customer, if:
- 16.1.1** The Customer breaches the Contract and does not remedy such breach within five (5) business days' notice by Vonex Telecom to remedy that breach;
 - 16.1.2** The Customer is in breach of the Vonex Telecom Acceptable Use Policy (AUP);

- 16.1.3 Vonex Telecom is required to perform any scheduled maintenance in connection with Vonex Telecom's facilities, network or systems;
- 16.1.4 There is a planned Outage period;
- 16.1.5 Vonex Telecom is required by any government agency or emergency service organisation to suspend the Services;
- 16.1.6 A Third Party Supplier disconnects or discontinues a service to Vonex Telecom;
- 16.1.7 A service access line has been disconnected by any other provider;
- 16.1.8 Vonex Telecom reasonably believe the Customer's Service is impacting the Vonex Telecom network or other networks in a detrimental way (i.e. malware infection, DoS or DDoS attack) whether or not it is caused directly or indirectly by the Customer;
- 16.1.9 There is an emergency of any kind which may require work to be carried out on Vonex Telecom's or a Third Party Supplier's facilities, networks or systems. In this case, Vonex Telecom will use its best endeavours to keep the Customer informed of the status and when the emergency may or will cease.
- 16.1.10 A Force Majeure Event occurs and affects Vonex Telecom's ability to provide the Services for the period that the Force Majeure event continues.

17. Acceptable Use Policy

- 17.1 The Customer acknowledges that the Vonex Telecom Acceptable Use Policy available at www.vonex.com.au/policies is applicable at all times when using any/all Vonex Telecom Services and agrees to be bound by that policy.

18. Definitions

Interpretations

In the interpretation of this document unless the context otherwise requires:

1. Words imparting the singular shall include the plural and vice versa;
2. Any gender shall be read as also imparting any other gender as the case may require;
3. Where more than one person is a party thereto, the agreements and covenants on their part herein contained shall be deemed to have been entered into jointly and severally and any benefit accruing to each of them from this document shall benefit each of them jointly and severally;
4. The headings are inserted for convenience only and shall not affect the construction of this document;
5. This document shall be read and construed as an Agreement;
6. Reference to a party in this document shall include the executors, administrators and successors of that party.

Appliance means software operating in a virtual environment or on hardware.

Authorised Co-location Representative (ACR) means in respect of Co-location Services only, an individual authorised by the Customer to access the Vonex Telecom Data Centre/s and/or receive technical information.

Authorised Representative means an individual authorised by the Customer to fully act on their behalf in respect of the Service, including receiving service and billing information, making technical changes, signing forms and making changes that affect billing.

Authorised Representative (Billing) means an individual authorised by the Customer to fully act on their behalf in respect of the Service, including receiving service and billing information, making technical changes, signing forms and making changes that affect billing. This representative is also the primary contact used by Vonex Telecom for correspondence, billing, quota notification emails and the like.

Cancellation means the termination of an Vonex Telecom product or Service.

Cancellation Fee means the fee payable by the Customer as outlined in the Product Terms and Conditions, Order Form or Contract for Cancellation of the Service prior to the Contract End Date.

Complete Provisioning means the Service has been completed by Vonex Telecom for use by Customer.

Contract means the agreement between the Customer and Vonex Telecom for the Services.

Contract End Date means the date on which the Contract Term expires.

Contract Term means the contract term specified on the Order Form or in the Contract, which commences on the Start Date of the Service.

Core Hardware means specific hardware models carried as spares by Vonex Telecom.

CPE means Customer Premises Equipment, equipment required by the Customer to use the Service, e.g. modem/routers, filters and telephony hardware.

Customer or **You/Your** means the individual, business or entity entering into the Contract with Vonex Telecom.

Establishment Fee means the initial fee payable to establish a Service.

Fault means in relation to Services, the failure or non-delivery of the relevant Services.

Fibre means in respect of nbn® services only, the Fibre to the Premises (FTTP) network that is owned, controlled and/or operated by or on behalf of nbn co ltd.

Fixed Line means in respect of nbn® services only, the FTTB, FTTC, FTTN or HFC network that is owned, controlled and/or operated by or on behalf of nbn co ltd.

Fixed Wireless or **Wireless** means in respect of nbn® services only, the wireless network that is owned, controlled and/or operated by or on behalf of nbn co ltd.

Force Majeure means acts of God; war (whether declared or not); act of terrorism, revolution or act of public enemies; riot or civil commotion, strike, stoppage, ban, limitation on work or restraint of labour; fire, flood, storm, tempest, radioactive contamination or wash away or high sea inundation; acts, decisions and mandatory directives of any government body; or any other event or circumstance which is beyond the reasonable control of either party and, without limitation, in the case of Vonex Telecom, includes any third party interference or damage to Vonex Telecom's Network.

FTTB means in respect of nbn® services only, the Fibre to the Building network that is owned, controlled and/or operated by or on behalf of nbn co ltd.

FTTC means in respect of nbn® services only, the Fibre to the Curb network that is owned, controlled and/or operated by or on behalf of nbn co ltd.

FTTN means in respect of nbn® services only, the Fibre to the Node network that is owned, controlled and/or operated by or on behalf of nbn co ltd.

HFC means in respect of nbn® services only, the Hybrid Fibre Coaxial network that is owned, controlled and/or operated by or on behalf of nbn co ltd.

Internet means the world wide connection of computer networks which provides a number of services to users including the transmission of electronic mail, provision of information on the world wide web and transfer of files.

nbn® means nbn co ltd. (ABN 86 136 533 741) and its related bodies corporate, and their respective officers, employees, agents, subcontractors and consultants. nbn®, nbn co ltd. and other nbn® logos and brands are registered trade marks of nbn co ltd. and used under licence.

nbn's Network means the network provided by or on behalf of nbn co ltd.

nbn® Equipment means any equipment that is owned, operated or controlled by nbn®.

nbn® Connection Box means a Network Termination Device (NTD) or Network Connection Device (NCD) owned and provided by nbn co ltd. located on the inside of the Customer premises.

nbn® Network Boundary Point means the UNI-D Ethernet port on the nbn® Connection Box at the Customer premises

Non-Excludable Terms means any terms, conditions or warranties that are implied into this agreement by statute and that cannot be excluded or modified without contravening the statute or causing the excluding or modifying clause to be void.

Network means the infrastructure used and maintained by Vonex Telecom to provide the Service to the Customer.

Order means a request or instruction from the Customer to Vonex Telecom in relation to the Service/s as accepted by Vonex Telecom.

Order Form means the relevant Vonex Telecom document or online request by which the Customer orders a new Service or change to a Service.

Outage means a period of time where a Service is unavailable or offline.

Out of Area Number means a Direct In-Dial Number (DID) that is allocated a different geographic area/region than where the Customer is located.

Plan Change Form means the relevant Vonex Telecom document or online request by which the Customer orders a change of plan for an existing Service.

Proactive Monitoring means in the event that Service unavailability is detected an Vonex Telecom representative will call one of the Customer's nominated contacts.

PBX means Private Branch eXchange, a telephone switching system that interconnects telephone extensions to each other as well as to the outside telephone network (e.g. PSTN or VoIP).

Reactive Monitoring means in the event that Service unavailability is detected an SMS and/or email alert will be sent to the Customer's nominated contacts.

Reconnection means restoring an existing Service.

Relocation means establishing a new Service at a new address or on different copper pair/s (line) using an existing username, password, configuration and associated attributes.

Service or Services means the products and services supplied to the Customer by Vonex Telecom as per the Service Order. A bundle of services ordered are supplied and billed independently.

Service Details means the information (such as username, password, technical support details) that Vonex Telecom will provide to the Customer that allows the Customer to enable, use and/or monitor the Service/s.

SIP means Session Initiation Protocol, which refers to the method used for controlling communication sessions (such as voice calls) over Internet Protocol (IP).

Site or Sites mean the specific address to which a Service is being provided.

Start Date means the date on which Vonex Telecom starts supplying an individual Service to the Customer. The Start Date is also the date the Contract Term commences.

Technical Representative means an individual or business authorised by the Customer to act on their behalf in respect of technical matters relating to the Service, including receipt of the Service Details, usernames and passwords. A Technical Representative is authorised to receive information about the Service and make technical changes (i.e. configuration/IP addressing), but is not authorised to sign order forms or make changes that affect billing unless the Customer has allowed the individual to act as an Authorised Representative.

Third Party Supplier means another business or entity that supplies products, goods or services to Vonex Telecom.

VoIP means Voice over Internet Protocol, which refers to delivery of voice communications over the Internet, rather than via traditional telephone line networks.

Vonex, Vonex Telecom or We, Us or Our, means Vonex Limited ABN 39 063 074 635 and/or its related entities. Vonex group includes Vonex Limited and its related bodies corporate, including (but not limited to) IP Voice and Data Pty Ltd t/as Vonex Telecom and Nextel (ABN 45 147 537 871), Voiteck Pty Ltd (ABN 45 139 880 952), Network Technology t/as On The Net (ABN 71 096 864 836), and Vonex Wholesale Pty Ltd t/as 2SG Wholesale (ABN 98 138 093 482).