

## General Terms and Conditions

### 1. CONTRACT

These General Terms and Conditions support the Contract, which is part of the C2 Communications Application Proposal. The Contract component of the Application Proposal contains the Contract Essentials.

### 2. CONTRACT TERM

The Contract Term shall commence on the Commencement Date and will run for the period noted in the Contract Proposal.

### 3. CHARGES AND PAYMENT

#### Invoiced Charges

3.1 The Customer shall pay the fees by the Due Date as specified by the Payment Terms in the contract.

#### Additional Charges

3.2 In addition to the fees and charges disclosed in the Application Form, the invoice or such other fee disclosure document provided by C2 Communications to the customer, additional charges may also be applicable including but not limited to the following:

- (a) If C2 Communications is requested by the Customer to provide the Service at a different site to the Premises prior to the delivery of the Service, the Customer must pay C2 Communications' reasonable costs and fees arising from the change of site.
- (b) If the information the Customer provided to C2 Communications to determine the infrastructure and installation required was incomplete or inaccurate;
- (c) If an Excluded Event occurs C2 Communications may also charge the Customer the costs incurred to service, modify, repair or replace the Service or any equipment, as a result of an Excluded Event;
- (d) If C2 Communications reasonably determines that a Fault arises out of or in connection with any Customer Equipment or the Customer's facilities, networks and systems, then irrespective of whether there was an actual Fault or not, C2 Communications may require the Customer to pay C2 Communications' reasonable costs and expenses in investigating the Fault, dealing with or remedying that Fault and such cost and expense shall be a debt due and payable by the Customer on demand to C2 Communications; or
- (e) Any other costs and charges agreed between the Customer and C2 Communications from time to time.

3.3 C2 Communications reserves the right to charge interest on any overdue amount payable to C2 Communications by the Customer under the Contract. Interest will be charged from the Due Date until payment is received at a rate 2% above the Commonwealth Bank Corporate Overdraft Reference Rate or such other equivalent interest rate basis plus 2% should the Commonwealth Bank Corporate Overdraft Reference Rate be no longer published. The Customer will be liable to pay to C2 Communications all expenses (including reasonable legal costs and expenses and the fees of C2 Communications' debt recovery agents) incurred by C2 Communications in relation to recovering payments due under the Contract.

3.4 C2 Communications reserves the right to withdraw any discounts or Special Offers that the Customer receives from C2 Communications in connection with the supply of the Service where payment is not received by the Due Date.

### 4. INSTALLATION AND EQUIPMENT

#### Provision of Equipment

4.1 C2 Communications shall provide a Service Interface at a Service Delivery Point ("C2 Communications Equipment") at the Premises enabling the Customer to transmit and receive data by the connection of appropriate equipment to be supplied by the Customer ("Customer Equipment").

**C2 Communications Equipment**

- 4.2 Title in the C2 Communications Equipment is not transferred to the Customer and at all times is retained by C2 Communications. The Customer holds the C2 Communications Equipment as bailee for C2 Communications.
- 4.3 Risk in the C2 Communications Equipment shall pass to the Customer on delivery of the C2 Communications Equipment to the Customer.
- 4.4 The Customer is responsible for any damage to, or destruction or theft of the C2 Communications Equipment, except to the extent it is caused by C2 Communications. The Customer must keep the C2 Communications Equipment in good repair and condition, excluding fair wear and tear and shall not sell, assign or permit any charge, lien, mortgage or encumbrance to be created in relation to it.
- 4.5 Unless otherwise agreed, the Customer must:
- (a) allow C2 Communications to service, modify, maintain, repair or replace the C2 Communications Equipment; and
  - (b) do all things reasonably required by C2 Communications to make clear the identity of the owner of the C2 Communications Equipment.

**Customer Equipment**

- 4.6 The Customer may purchase equipment from C2 Communications for use in connection with the Service. Such equipment shall form part of the Customer Equipment for the purposes of the Contract. Title to that equipment passes to the Customer when the Customer pays for it in full in cleared funds. Risk in that equipment passes to the Customer on delivery of the equipment to its nominated location. C2 Communications will use reasonable efforts to transfer to the Customer any C2 Communications manufacturer's warranty in any such equipment from the time title passes to the Customer.
- 4.7 The Customer acknowledges and accepts that C2 Communications is entitled under the Personal Properties Securities Act 2009 to register its interest in any Hardware that C2 Communications supplies to the Customer as a purchase money security interest and the Customer waives its rights to receive a copy of any such registration including the Notice of Verification Statement.
- 4.8 The Customer must ensure that all Customer Equipment and its use in connection with the Service, complies with all laws, directions by a Government Agency and any reasonable directions by C2 Communications, otherwise C2 Communications may disconnect that Customer Equipment from the Service on giving reasonable notice or immediately in an emergency.

**Scheduled Installation**

- 4.9 C2 Communications will advise the Customer of the Scheduled Delivery Date for the Service, and shall use best endeavours to commence installation of the equipment on the Scheduled Delivery Date, however C2 Communications shall not be liable for any Liability incurred by the Customer due to a failure to install on or before the Scheduled Delivery Date.

**C2 Communications Network**

- 4.10 The C2 Communications Network is and shall remain the property of C2 Communications irrespective of the manner in which any hardware or part of it is attached or secured to any land or buildings.

**5. MAINTENANCE AND REPLACEMENT**

- 5.1 C2 Communications may in its discretion and for so long as it determines, replace any part of the C2 Communications Equipment or Service with similar equipment or Service as may for the time be available. Any replacement shall be subject to the Contract in the same way as if they comprised the original C2 Communications Equipment or Service offered.
- 5.2 C2 Communications may interrupt the Service or C2 Communications Equipment for the Planned Outage Period and will give advance notice to the Customer wherever possible.

## 6. NATURE OF THE CONTRACT

- 6.1 The Contract contains the entire agreement between C2 Communications and the Customer and supersedes all prior communications and negotiations between the parties.
- 6.2 Unless otherwise specified in the Contract, no amendment or variation of the Contract is valid or binding on a party unless made in writing and signed by the Customer and C2 Communications.

## 7. WARRANTIES, DISCLAIMERS AND INDEMNITIES

- 7.1 The Customer shall indemnify C2 Communications from and against any Liability which may be incurred or suffered by C2 Communications arising from any one or more of the following:
  - 7.1.1 the breach by the Customer of a material term or any of the Customer's obligations under the Contract;
  - 7.1.2 any negligent act or omission or willful misconduct by the Customer arising from the use of the Service, C2 Communications Equipment, Customer Equipment or otherwise arising out of the Customer's obligations under the Contract;
  - 7.1.3 the use or provisioning of the Service or the C2 Communications Equipment or the Customer Equipment; and
  - 7.1.4 any claims or demands made upon C2 Communications by reason of any loss, injury or damage which may be suffered by any person from the provisioning or use of the Service or the C2 Communications Equipment.
- 7.2 C2 Communications reserves the rights to modify the services, products, rates or terms of this Agreement at any time as it sees fit.
- 7.3 The warranty provided on hardware supplied as part of the service provided by C2 Communications is limited to the manufacturer's warranty.

## 8. TERM INATION AND SUSPENSION

### Termination by C2 Communications

- 8.1 C2 Communications may, without liability, terminate the Contract or provisioning of the Service at any time prior to the Commencement Date, if C2 Communications reasonably determines that it is not technically or operatively feasible or commercially viable to supply the Service to the Customer.
- 8.2 C2 Communications may, without liability, at its option either terminate or suspend the Contract by giving notice to the Customer.
- 8.3 C2 Communications has the right to suspend or cancel any service, should payment of invoices not be paid by the due date.
- 8.4 If the Service is terminated before the end of the Term, the Customer must pay to C2 Communications an amount calculated by multiplying the Monthly Service Fee by the remaining months (or part thereof) of the Term and any outstanding charges including Establishment Fee or part thereof.

### Termination by Customer

- 8.5 The Customer may terminate the Contract:
  - 8.5.1 before the Commencement Date and the Customer must pay to C2 Communications all infrastructure and installation costs incurred by C2 Communications in connection with preparation for the provision of the Service; or

- 8.5.2 after the Commencement Date but before the end of the Term by giving 60 days written notice to C2 Communications and must pay C2 Communications an amount calculated by multiplying the Monthly Service Fee by the remaining months (or part thereof) of the Term and any outstanding charges including Establishment Fee or part thereof. Such right of termination is without prejudice to any other rights which the party not in breach may have.

## **9. CONFIDENTIALITY**

- 9.1 C2 Communications and the Customer each agree to keep confidential the other's Confidential Information and to not use the Confidential Information for any other purpose than that for which it was disclosed or which may cause C2 Communications loss.
- 9.2 C2 Communications retains all property rights in the Confidential Information
- 9.3 The Customer may disclose Confidential Information (to the extent reasonably necessary) to its Representatives for the sole purpose of assisting the Customer for purposes related to the supply of the Service (or for purposes which would be reasonably expected) including billing and account management, business planning and product development.
- 9.4 The obligations of confidentiality in this clause 9 do not apply to the extent disclosure is required by law or the rules of a stock exchange, a direction by Government Agency, or disclosure to professional advisors in connection with the supply of the Service.
- 9.5 The Customer acknowledges that a breach of this clause 9 may cause C2 Communications irreparable damage for which monetary damages would not be an adequate remedy. Accordingly, in addition to other remedies that may be available, C2 Communications may seek injunctive relief against such a breach or threatened or suspected breach.
- 9.6 The Customer's obligations with respect to the Confidential Information survive termination and bind the Customer until the relevant Confidential Information has become part of the public domain other than in breach of an obligation of confidentiality.

## **10. GOVERNING LAW**

- 10.1 This Contract shall be governed by the law of Victoria Australia and the parties agree to submit to the jurisdiction of the Courts of Victoria.

## **11. GOODS & SERVICES TAX**

- 11.1 In this clause the expressions "consideration", "GST", "input tax credit", "recipient", "supplier", "supply" and "tax invoice" have the meanings given to those expressions in the A New Tax System (Goods and Services Tax) Act 1999.
- 11.2 All prices or other sums payable or consideration to be provided and which are expressly stated in this Contract are exclusive of GST unless otherwise indicated.
- 11.3 If GST is payable by C2 Communications on any supply made under the Contract the Customer will pay to C2 Communications an amount equal to the GST payable on the supply. Subject to the supply of a tax invoice that amount will be paid at the same time the consideration for the supply is payable under the agreement and will be paid in addition to the consideration. C2 Communications shall provide the Customer with a tax invoice in respect of the supply.
- 11.4 Where the Customer is required to pay for or reimburse an expense or outgoing of C2 Communications, the amount to be paid by the Customer is the amount of the expense or outgoing less any input tax credit in respect of such expense or outgoing that C2 Communications is entitled to.
- 11.5 Any invoice or claim provided by C2 Communications under the Contract will be or be accompanied by a tax invoice or other approved document providing the Customer with the ability to claim an input tax credit.