

# The Support Desk NZ Limited Terms and Conditions

## 1. Terms and Conditions

- a. These terms and conditions set out the basis on which we provide Products and Services.
- b. Additional terms may apply to the use of the other Products and Services we provide. If so, we will tell you what those terms are. If there is any conflict between these terms and any additional terms, the additional terms will prevail.

## 2. Trading Issues

- a. Any price list or marketing advice supplied does not constitute an offer for sale, and we reserve the right to decline any order for Products and Services.
- b. All prices are subject to change without notice and at our sole discretion. In respect of Products and Services delivered after any price change, the price charged shall be the price applicable at the time of the delivery.
- c. We reserve the right to terminate any agreement to supply Products and Services.

## 3. Our Products and Services

- a. We are not obliged to provide Products and Services unless we accept your application. We reserve the right to decline any application.
- b. We will be responsible for determining the manner in which the Products and Services are to be provided. For example, we may sub-contract other carriers to provide part of any service.
- c. We will use all reasonable endeavours to make our Products and Services available to you at all times. However some Services rely on us using networks and Services owned by other people. As a result we cannot promise that our Services will always be available or fully functioning. If our Services are unavailable for any reason we will endeavour to restore service as soon as possible. If you need assistance in using any Products and Services please call us on 04 905 2400.
- d. While we take reasonable security precautions, due to the nature of the Services we provide, we cannot guarantee the confidentiality of any calls or transmissions you make using our Services.
- e. We can suspend or restrict our Services at any time if:
  - i. we consider it necessary to protect or maintain our network or anyone else's network; or
  - ii. we believe that you have breached any of our terms and conditions.
- f. Network charges will still apply during the period of any suspension.
- g. All manufacturers' warranties are extended directly to you.

#### 4. Trading Hours

Our hours of business are 9.00am – 5.00pm, excluding weekends and public holidays.

#### 5. Types of User

- a. **Business** – those clients that use information technology and/or communications equipment to facilitate their business;
- b. **Home** – those clients who only use their information technology and/or communications equipment primarily for personal use.

#### 6. Charges

- a. You must pay our charges for the Products and Services we provide to you, regardless of whether you or someone else uses those Products and Services. We may vary our charges from time to time. If we increase any charge we will give you as much notice as reasonably possible. You can always check the latest available charges by viewing our website at <http://www.thesupportdesk.co.nz>.
- b. **Business** clients will be billed in blocks of 15 minutes
- c. **Home** clients will be billed in blocks of 30 minutes. For those Home clients who require a site visit there will be a minimum charge of one (1) hour with subsequent time being billed in 30 minute blocks.
- d. Our method of invoicing is by means of email.
- e. We will invoice **Business** and **Home** clients monthly for recurring Products and Services we provide to you. Fixed telecommunication charges are payable in advance. Usage based charges (such as toll calls) are payable in arrears.
- f. Non-recurring invoices for **Business** and **Home** clients will be invoiced on completion of work, unless agreed prior.
- g. Payment of each invoice for **Business** clients is due by the 20<sup>th</sup> of the month following the invoice date. Payment of each invoice for **Home** clients is due 14 days following invoice date. If payment is not received within that time we may:
  - i. charge you interest on the overdue amount from the due date until the date you pay, at the rate of 2% per month compounded; and
  - ii. withhold any rebate, discount or similar incentive which would otherwise be available to you; and
  - iii. suspend or restrict your service; and
  - iv. recover from you any debt recovery costs
- h. If you wish to raise a genuine dispute regarding an invoice from us you must do so in writing before the invoice due date. We will consider any issues raised in good faith and will promptly advise you of any resolution or amendment to our charges.
- i. We may at our discretion impose a credit limit on your account.

- j. If you breach any term of this agreement, and we incur costs as result, then you must pay those costs on demand.
7. Title
- a. We shall retain full legal and equitable title in the Products, and title to Products shall not pass to you until such time as payments (including delayed or deferred payments on a credit basis) have been paid in full.
  - b. In the event of non-payment where there is no dispute, we reserve the right to enter your premises or any third party's premises where Products are located to take possession of Products, and we shall not be responsible nor liable in any manner whatsoever for any damage caused or any loss that results from such action. You hereby grant us and our agents an irrevocable licence to enter such premises and repossess Products.
8. Using our Products and Services
- a. You must not use our Products and Services (or permit our Products and Services to be used) in a way which:
    - i. breaks any laws;
    - ii. infringes anyone's rights; or
    - iii. is malicious, obscene or offensive.
  - b. You must keep confidential any password or PIN number which is used by you to access our Products and Services and we recommend that you change this on a regular basis for security reasons. You must also change your password or PIN number if we ask you to do so.
  - c. You must comply with any reasonable restrictions we impose or directions we give regarding the use of our Products and Services.
  - d. You must ensure that all information you give us is correct. Where any information you have supplied to us changes (such as contact details) you must provide us with updated information as soon as possible.
  - e. Subject to any term commitment, you must notify us if you wish to terminate any of our Products and Services.
  - f. You agree that we can act on any verbal instructions you give us in relation to the Products and Services.
9. Term
- a. If you have agreed to use a service for a fixed contract term, then you must do so. However if an early termination fee is specified in your application form for that service, then you can terminate the service during the fixed term by paying the early termination fee. For Products and Services where there is no fixed contract term, or where the fixed term has expired, either of us can terminate that service on giving the other 30 days' written notice.
  - b. We can terminate the provision of any service to you on no less than 30 days' written notice if a third party service provider or carrier does anything that prevents us from supplying that service to you on a commercially viable basis.

- c. We can terminate this agreement, or the provision of any service to you, immediately if you breach any term of this agreement or if we reasonably believe that you have supplied incorrect or misleading information to us.
- d. If this agreement is terminated for any reason you must still pay us for Products and Services provided to you up to the date of termination. If you have prepaid for a service, no refund is payable to you on termination unless we agree otherwise.

#### 10. Liability

- a. We are prepared to give consideration to any reasonable complaint regarding manufacture or workmanship. If, in our sole opinion, we conclude that the complaint is justified, we shall endeavour to obtain redress/compensation from the manufacturer.
- b. You shall ensure that your terms of sale require purchasers of Products to comply with and be bound by the applicable causes of these terms, and you indemnify us for any losses incurred as a result of your omission to do so.
- c. With regard to telecommunication services, we exclude all of our liability to you in connection with us providing Products and Services to you or failing to provide Products and Services to you. Without limiting this, we are not liable to you (and nor are any of our officers, employees, contractors or agents liable to you):
  - i. if any communication you make is intercepted;
  - ii. if any communication you make is not properly transmitted or received;
  - iii. if any of our Products and Services are not available at any time or are faulty;
  - iv. for any delay in commencing the provision of Products and Services;
  - v. if any software or equipment we supply does not operate properly;
  - vi. for any error in any directory listing which we arrange;
  - vii. (for internet clients) if your computer becomes affected by any virus or malware.
- d. We are not liable to you for any fault in or non-provision of Products and Services which is caused by an event beyond our reasonable control.
- e. If you use another telecommunication service provider's Services during any period when our service is not fully operational, we are not liable to pay any amount you are charged by that service provider.
- f. You acknowledge that no third party whose network or Services we use to supply Services to you (nor any officer, employee, contractor or agent of such third party) is in any way liable to you in connection with our Products and Services. This clause is intended to confer a benefit which those third parties can enforce.
- g. If we are held to be liable to you for any reason, then our liability to you is limited to an amount equal to our average charges to you for one month in respect of any single event or related series of events and to a maximum amount equal to our average charges to you for a three month period in any one year.
- h. You agree that if you are using our Products and Services for the purposes of a business that any rights you may have had under the Consumer Guarantees Act are excluded.

## 11. Privacy

- a. You may at times supply us with personal information, for example, when you apply to become a customer. We may also obtain personal information from your use of our Products and Services.
- b. You agree to us using your personal information and where appropriate disclosing it to third parties where this is required for us to provide you with Products and Services, for credit checking and collection and to communicate with you about our current and future Products and Services.
- c. Any personal information we collect is kept securely at our offices or premises where our servers are housed. You are entitled to see any information we hold about you (although you must pay our reasonable charge for making it available) and to request that any incorrect information be corrected.
- d. We may record or monitor calls between us to verify information and for staff training purposes.

## 12. Changing these terms

- a. We can change these terms from time to time by giving you 14 days' notice. Our latest terms and conditions are available at [www.thesupportdesk.co.nz](http://www.thesupportdesk.co.nz)

## 13. Notices

- a. If you wish to notify us of anything you can do so by writing to us at PO Box 6, Paraparaumu or by calling 04 905 2400. We may require you to confirm in writing any advice you give us by phone.
- b. If we wish to communicate with you or notify you of anything we can do so by post, phone, facsimile or email to the last known address or number we have for you.
- c. If your contact details change you must advise us of the new details as soon as possible.

## 14. Other matters

- a. These terms are to be interpreted in accordance with the laws of New Zealand. Any dispute regarding the provision of our Products and Services under these terms is to be determined by New Zealand courts.
- b. You must not assign your rights under this agreement. We can transfer our rights and obligations under this agreement to anyone else. We will notify you if we do so.
- c. A delay in exercising any right is not a waiver of that right. A failure to exercise a right on any occasion does not prevent any subsequent exercise of that right.