

NEXUS INTERNET STANDARD FORM OF AGREEMENT

1. About these terms

- 1.1. This is Nexus Internet Pty Ltd (ABN 99 672 723 036) ('Nexus') Standard Form of Agreement for the purpose of section 479 of the Telecommunications Act 1997, which set out the standard terms for all of Nexus's customers.
- 1.2. Capitalised defined terms are set out in the Dictionary at the end of these Customer Terms.
- 1.3. The Application form includes the specific features of a Service that Nexus provides to you.
- 1.4. Direct Debit Authority, provides Nexus with Authorisation to debit the customers bank account or credit card for the charges incurred under this agreement.
- 1.5. A copy of the latest Customer Terms, Application, Maintenance Service Schedule and Rate Sheet are available from Customer Services.

2. Your Agreement

- 2.1. Your Agreement with Nexus comprises the following documents provided to you, or to which you have access:
 - (a) These terms;
 - (b) Application Form(s);
 - (c) Direct Debit Authority
- 2.2. If there is any inconsistency between these Terms and any other part of the Agreement, the Customer Terms will prevail unless otherwise stated. The rights and obligations under the Agreement are subject to the TCP Code.
- 2.3. The Agreement commences on the date your Application Form is accepted by Nexus and it notifies you accordingly.
- 2.4. The Service under the Agreement will be provided to you from the Service Start Date.
- 2.5. Duration of Service:
 - (a) Services will be provided to you in accordance with your Application Form. On expiry of any Service Term for a Service, that Service will continue to be supplied on a month-to-month basis, unless you or Nexus terminates the Service in accordance with the Agreement.
 - (b) Fixed Term Services are provided as follows:
1. Nexus will provide the Service/s to you in accordance with the Agreement for the Service Term, or until the Service is terminated in accordance with clause 13.
2. If neither party terminates the Service at the end of the Service Term, or in accordance with clause 13, as the case may be, sub-paragraph (a) above will apply.
- 2.6. Peak & Off-peak
 - (a) A Plan may specify certain days and/or times as 'Peak' or 'Off-peak' and different Charges, entitlements or terms may apply in Peak and Off-peak periods, details of which will be in the Plan.
- 2.7. Nexus may from time to time publish Fair Use Policies for a Service or Plan, which you are required to comply with. A Fair Use Policy aims to protect Nexus's customers from unacceptable, unreasonable or excessive use of a Service. You must also comply with any applicable Fair or Acceptable Use Policy from Nexus's Suppliers.
- 2.8. You must ensure you do not use a Service for the purpose of supporting:
 - (a) Substantial carrier or service provider data aggregation applications that result in substantial and continuous network throughput; or
 - (b) Connections for the purpose of providing or enabling carrier or service provider interconnection.

3. Changing the Agreement

- 3.1. Nexus may, on giving you not less than 30 days' notice, make changes to the terms and conditions of the Agreement, or any part of it, as set out in this clause.
- 3.2. Nexus may increase Charges for a Fixed Term Plan if:
 - (a) The charge relates to international services and/or roaming, and/or
 - (b) The charge is required by law or it relates to a fee or a charge to account for a tax imposed by law.
- 3.3. Where you acquire products and/or Services from Nexus together in a Bundle and, due to circumstances beyond Nexus's control, one or more components of the Bundle is/are not able to be supplied either at all or as you ordered, then:
 - (a) Nexus can decline to supply that particular component, and
 - (b) You are not entitled to cancel the purchase of the remainder of the Bundle.
- 3.4. Notwithstanding any other provision of this clause, you acknowledge and agree that Nexus is not obliged to give you notice of the following, nor will any of the following entitle you to terminate the Agreement and/or any Service:
 - (a) Changes in law, urgent changes for security reasons, and/or changes by a Supplier to their Services (including an increase in Charges);
 - (b) Due to technical, operational and/or commercial reasons, the Network Service (or any part thereof) may not be able to be supplied error free or at all or without delay or interruption (whether such delay or interruption occurs in connection with the provisioning of the Network Service or at a later time).
- 3.5. You further acknowledge that where Nexus gives you notice of any one or more matters in clause 3.5, Nexus will not be liable to you for any loss, damage and/or outgoing you may suffer from, or arising out of, any act or occurrence for which you are given notice under clause 3.5.
- 3.6. Customer changes
 - (a) You cannot make any changes to the Agreement without Nexus's prior written consent.

4. Application requirements

- 4.1. Details of your Services are set out in the Order Specification.
- 4.2. Application for Service
 - (a) You must comply with the terms of any application form Nexus requires you to complete in order to be eligible to be provided with the Services.
 - (b) You must provide to Nexus, to the best of your ability, information which is substantially correct, complete and not misleading.
- 4.3. Processing an application
 - (a) Nexus may reject your application for any reason, including:
 1. You do not provide sufficient proof of identification;
 2. You do not meet the eligibility criteria;
 3. The service is not available at the required location;
 4. You do not have an appropriate credit rating;
5. You do not provide all of the information or other assistance required to provide you with the Services; or
6. Nexus otherwise decides, in its sole discretion, not to accept your application.
 - (b) In processing your application, Nexus may make enquiries including obtaining credit information in accordance with clause 10.3 and contacting your existing Supplier to port your Service (if applicable). You authorise Nexus to make these enquiries and agree to provide any reasonable assistance Nexus requires to do so.
 - (c) You acknowledge that if you take any step such as terminating a Service from another supplier before obtaining confirmation from Nexus that your application has been accepted, you do so at your own risk.
- 4.4. Relevant dates

- (a) The date you submit your application to Nexus is known as the 'Application Date.'
- (b) The date Nexus confirms it agrees to provide the Service is known as the 'Agreement Date'.

4.5. Providing the Service

- (a) Nexus will commence provision of the Service as soon as reasonably practicable after the Agreement Date.
- (b) Nexus may provide you with the Service using its Facilities and / or Facilities of a third party Partner from time to time. These Facilities are jointly known as the 'Network'.

5. Personal information

5.1. Collection, use and disclosure of Personal Information

- (a) Nexus collects Personal Information directly from you. Nexus only uses your Personal Information to supply products to you, provide you with the best service and for other purposes that are detailed in Nexus's Privacy Policy, which is available on its website.
- (b) You acknowledge that Nexus may share your Personal Information with a number of third party service providers and Partners for the Agreed Purposes.
- (c) You agree that your Personal Information, including any applicable credit rating, will be provided to Nexus's Suppliers and any other associated companies as necessary for the purposes of providing you with the Services.

5.2. Further information about privacy including information on making a complaint is available in Nexus's Privacy Policy.

6. Use of the service

6.1. Connection

- (a) You agree to cooperate with Nexus and its Partners to allow Nexus to install and supply the Service to you in the best possible way. Failure to do so will entitle Nexus to cancel or suspend the Service pursuant to the Agreement.

6.2. Quality

- (a) Nexus will provide the Service to you with due care and skill. If unexpected faults and/or service interruptions arise, Nexus will reasonably endeavour to restore the Service as soon as possible in accordance with Nexus's Maintenance Service Schedule.

6.3. Permitted uses

- (a) You must comply with the following when using Services provided by Nexus and its Partners:
 1. All applicable laws, including regulatory and other directions and notices issued under law;
 2. Reasonable (in the opinion of Nexus) directions issued by Nexus or its Partners; and
 3. You must also ensure you comply with any rules imposed by any third party whose content or Services you access by using the Service or any networks your data crosses.
- (b) You must not use the Service in breach of any laws or regulations, including but not limited to:
 - i. In a manner that breaches the rights of any person;
 - ii. To copy, download, supply to anyone else or communicate to the public any material where you do not have permission to do so;
 - iii. To create, transmit or communicate materials which are deemed defamatory, obscene, pornographic, discriminatory, offensive, in breach of confidence, illegal or which may bring Nexus or its Partners into disrepute;
 - iv. To host or transmit content which contains and/or transmits and/or accesses viruses or other harmful code or data designed to interrupt, damage, destroy or limit functionality of software, hardware or communications equipment and/or facilities;
 - v. To send Spam, use email harvesting software or engage in conduct that transmits commercial communications and/or otherwise breaches the Spam Act 2003(Cth);
 - vi. In a manner that could be construed as misleading or deceptive;
 - vii. In a manner that results or may result in damage to property; or
 - viii. In any way intended to cause damage or interference with Nexus's services to other customers, its Partners and/or any Facilities.

6.4. Use by others

- (a) You must ensure that anyone using the Service complies with the terms and conditions of this Agreement.
- (b) Unless Nexus appoints you in writing as a reseller or wholesale customer, you must not share, resell or resupply a Service for remuneration or reward.
- (c) A person who makes use of a Service with your consent, from your premises or using your Equipment and password, is your 'End User'.
- (d) Acts and omissions of End Users with respect to your Service are your acts and omissions, and you agree to be held liable for the acts and omissions of your End Users.

6.5. Unusually high use

- (a) You must use the Service in accordance with the Fair Use Policy.

6.6. Allocation of telephone numbers

- (a) Nexus may allocate you a telephone number(s) in connection with provision of the Service.
- (b) Provision of telephone numbers will be in accordance with the Telecommunications Numbering Rules which sets out rules for issuing, transferring and changing telephone numbers.
- (c) Any numbers provided to you in connection with the Services are not owned by you and you have no right to retain a particular number when you are no longer provided with the Services except where you are permitted to transfer a number to another Supplier. If Nexus has to change or withdraw a telephone number previously allocated to you to abide by the rules of the Telecommunications Numbering Rules, you will have no claim against Nexus.
- (d) You do not receive any legal interest or any goodwill in any phone number provided to you for use in connection with the Network or Service;
- (e) You must not act in a manner which may cause a breach of the Telecommunications Numbering Rules or relocate, reassign or transfer the number for any Service except in accordance with the policies and procedures outlined by Nexus and its Partners, and as prescribed by legislation.
- (f) Local Number Portability

Porting allows you to change your Supplier without changing your telephone number(s). In order for Nexus to be able to Port your number:

1. You must sign a request form provided by Nexus so that the Port can occur in accordance with the Local Number Portability Code.
2. You acknowledge that certain types of Services and lines cannot be Ported (for example 'Securitel' security lines).
3. Porting may include Charges which are set by the Supplier and are subject to change.
4. Any request to Port a number may result in your Service with your current Supplier being disconnected or terminated and you may be liable, amongst other things, to:
 - i. Pay Charges (including early termination fees) to that Supplier; and
 - ii. Perform all your obligations that arise or survive the disconnection or termination of your service with that Supplier.

6.7. IP addresses, email addresses, domain names

- (a) You may be allocated IP addresses, email addresses and domain names in connection with a Service.
- (b) IP addresses, email addresses, domain names and other internet identifiers ('Identifiers') are controlled and regulated by independent authorities who have their own rules that govern use of the Identifiers.

- (c) You acknowledge you do not own any Identifiers that have been allocated to you in connection with the Service and you have no right to retain a particular Identifier when you are no longer provided with the Services, except where you are permitted to transfer it to another Supplier.
- (d) Supplier requirements:
1. You acknowledge that you will use the Service as your primary link to the internet; and
 2. On termination of the Service, you will immediately cease using those IP addresses and remove them from your software and hardware devices.
- (e) Dynamic IP addresses
1. Unless your Service specifies a static IP address, Nexus or its Partners may use dynamic IP addresses that change from time to time.
 2. This is network behaviour and does not constitute a reportable network fault.
 3. If you require the Service to operate an internet server such as a mail server or web server you should request a static IP address. This may incur additional charges which will be discussed with you at the time you make this request.

7. Equipment

7.1. Customer Responsibilities

- (a) It is your responsibility to ensure that any Equipment you use complies with:
1. All applicable laws, including regulatory and other directions and notices issued under law; and
 2. Reasonable (in the opinion of Nexus) directions issued by Nexus or its Partners.
- (b) Any breach of the paragraph above may result in:
1. Nexus or its Partners disconnecting the Equipment from the Services; or
 2. Suspension of the Service in accordance with clause 14; or
 3. Cancellation of the Service in accordance with clause 13.
- (c) Nexus will endeavour to provide you with reasonable notice before it or its Partners take action under paragraph (b) above. In certain emergency circumstances Nexus may be required to take action immediately and without notice.

7.2. Ownership

- (a) Nexus's Equipment
1. You are responsible for Nexus's Equipment from the moment of receipt and you assume risk in the Equipment as from that date and at the point of delivery.
 2. Nexus, its Partners or other third parties retain title to the Equipment as follows:
 - i. If the Equipment is loaned, at all times; or
 - ii. If the Equipment is Bundled Equipment, until expiry of the term specified in your Application Form, and all Charges payable in respect of such Equipment are paid in full; or
 - iii. If the Equipment is other than as provided for above, until full payment has been made.
 3. You must not mortgage, charge, lien or otherwise encumber the Equipment owned by Nexus or its Partners without the prior written consent of Nexus.
 4. Nexus may supply substituted or modified Equipment on occasions where stock of advertised equipment is unavailable or not suitable for the technical requirements of your situation.
- (b) Equipment not provided by Nexus:
1. You are responsible for compliance with any relevant technical standards and requirements with respect to Equipment not supplied by Nexus, including those from suppliers or relevant manufacturers;
 2. Nexus and its Partners will not be liable to you for any loss or damage or expenses incurred in relation to your use of the Equipment, except to the extent Nexus are grossly negligent or breach the Australian Consumer Law.
- (c) Bundled Equipment:
1. Under some of Nexus's Plans, you will be supplied with Equipment (e.g. a mobile handset or modem) without paying its full purchase price on delivery ('Bundled Equipment').
 2. Nexus will to the best of its ability supply bundled equipment to the order specifications. However, this will be subject to availability. If an item is not available for whatever reason, Nexus may use its discretion to substitute the closest alternative. Acceptance of delivery is constituted by signing of a delivery acceptance and/or opening of package.
 3. Bundled Equipment is Equipment provided to you for use in connection with the Service provided to you under this Agreement.
 4. You will be liable to pay Nexus the full cost of the Bundled Equipment in addition to the Charges for your Services.

7.3. Delivery

- (a) Nexus will endeavour to deliver Equipment to you on the Delivery Date at between 9am to 5pm on a Business Day.
- (b) Variations to delivery under clause 7.3(a) are at Nexus's discretion and may involve additional charges and conditions of which Nexus will notify you prior to arranging delivery.

7.4. Installation and connection

- (a) This clause only applies if Nexus or its Suppliers expressly agree to install or connect Equipment.
- (b) Nexus will endeavour to install the Equipment at the Site within a reasonable time after the Delivery Date and connect you to the Service between 9am to 5pm on a Business Day.
- (c) You must provide Nexus with safe access and prepare the Site for the installation at your own expense in accordance with any directions Nexus may provide you including but not limited to:
1. Appropriate electrical supply, as advised by Nexus and its Suppliers;
 2. Electrical and mechanical fittings suitable for the purposes of installation;
 3. If applicable, secure location including a suitable point for mounting an external satellite dish with no immovable obstructions;
 4. Facilities for the location of the Equipment, including appropriate furniture and office space as required;
 5. Access to personnel including technical support at the point of installation;
 6. Permission for Nexus and/or its representatives and agents to enter the Site and install the Equipment, including making any minor physical modifications that are deemed reasonably necessary for installation;
 7. You warrant you have notified all interested parties and obtained any relevant consents, permits, licences, approvals, authorisations (including any applicable local council planning approvals) for Nexus to enter the Site, install and connect you to the Service;
 8. Nexus reserves the right to charge you at a reasonable rate if, due to your non-compliance or breach of this clause, installation is required to be rescheduled with or without notice;
 9. Nexus may charge you installation charges in accordance with your Agreement and may decline to proceed with installation if you refuse to agree to any additional charges to cover factors which are beyond Nexus's reasonable control and outside those outlined above;
 10. You agree to provide adequate space and power supply for all Equipment used in connection with the Service that is located on the Site;
 11. You consent for fixed line voice services to be provided over fibre;

- 12. You acknowledge there may be a temporary power and supply outage while you are provided with the Services.
- 13. Once an installation date is booked in, any postponement, cancellation or rescheduling must occur with 2-days notice of the planned installation date. Failure to give at least 2 days notice will incur a 20% re-stocking fee of the agreement value. If an installation is booked in and confirmed via email less than 2 days from installation date, any cancellation, postponement or rescheduling will incur the re-stocking fee.
- 14. After the 10-days cooling off period has elapsed, any cancellation to an agreement will incur a re-stocking fee equal to the agreement value (monthly network plan x length of term) to recover the amount committed by Nexus to its wholesale carrier(s).

7.5. Additional services

- (a) If Nexus agrees to provide additional Services, it will charge for time, materials and any other associated costs based on the rates current for such additional Services at the time.

7.6. Loss, theft or damage

- (a) You are responsible for lost, stolen or damaged Equipment owned by Nexus and you agree that you will remunerate it to the value of the Equipment except to the extent of any damage or loss that is caused by Nexus's personnel.

7.7. Return of Equipment

- (a) You must return all Equipment owned by Nexus, if any, at the termination of the Agreement, or you may be liable for additional Charges in accordance with clause 13.

7.8. Outright Purchase of Equipment

- (a) Outright purchase of equipment requires a 50% non-refundable deposit prior to installation. Final balance is due immediately upon completion of installation. If final balance is not received within 2 business days of installation, Nexus reserves the right to remove any equipment that has been installed and will withhold the deposit. Installation is deemed to be 'complete' regardless of any pending supply of network services or other factors not controlled by Nexus e.g. services from a third party provider.

8. Network Maintenance, fault reporting and rectification

- 8.1. From time to time maintenance may be conducted on the Network by Nexus, its Partners or a Supplier. Nexus will endeavour to conduct scheduled maintenance outside usual business hours, but you acknowledge this is not always possible.

8.2. Reporting faults

- (a) Faults may be reported to Nexus during its office hours of 9am to 5pm on Business Days.
- (b) Before reporting a suspected fault, you must attempt to ensure that any Equipment provided by you and used in connection with the Service is not the cause of the fault.
- (c) You will endeavour to assist Nexus or its Partners to investigate and repair a fault.

8.3. Nexus's Responsibilities

- (a) Nexus will investigate and repair faults that are notified to it in accordance with the Agreement, other than those identified below.
- (b) Nexus is not responsible for repairing any fault where the fault is caused by:
 - 1. A Supplier's or other third party's Network, cables, or connections, or those of the building within which the Site is located;
 - 2. Equipment Nexus is not responsible for (i.e. owned by you or not provided by Nexus for use in connection with the Service); and
 - 3. Any facilities outside the Site.
- (c) If the fault is caused by a Supplier's or other third party's Network, cables or connections, Nexus will, once notified of such a fault in accordance with the Agreement, notify the Supplier or third party within a reasonable period and request that the fault is rectified as soon as possible.
- (d) If Nexus investigates a fault that falls under paragraph (c) above, Nexus may charge you its standard costs for investigation and repair of such fault.

9. Charges

9.1. You must pay the following Charges for use of a Service:

- (a) Charges as set out in your Application Form or any applicable Rate Sheet; and
- (b) Any additional Charges noted in the Agreement, a Plan and/or as notified to you from time to time.

9.2. Types of Charges (Non-exhaustive list)

- (a) Installation charges (e.g. installing Equipment).
- (b) Set up (e.g. one-off charge at commencement).
- (c) Monthly recurring Charges (e.g. fixed monthly charge for a fixed line or ADSL service).
- (d) Usage (e.g. charge per call made on a local call service).
- (e) Prepaid (e.g. charge for call credit on a mobile telephone service).
- (f) Call Connection (e.g. charge incurred when a telephone call connects).
- (g) Miscellaneous (e.g. an administration charge for providing a paper bill, any charge that an applicable code, regulation, determination or law specifically allows Nexus to make).
- (h) Third party (e.g. an amount Nexus must pay to a Partner or a Supplier to install a second telephone line in your premises or other similar charges).
- (i) Equipment (e.g. price of a modem Nexus sells to you).
- (j) Any other Charges as detailed in the relevant Rate Sheet applicable to your Plan.

9.3. Calculation

- (a) Charges will be calculated according to the Rate Sheet, which is available from Nexus's customer services.
- (b) Charges passed on by Nexus's Partners, Suppliers and/or any third parties will be billed at their applicable rates.

9.4. Not required

9.5. Variations

- (a) Nexus may vary the Charges or add new Charges from time to time in accordance with clause 3.
- (b) You acknowledge that the Services and Charges may vary when you are travelling overseas and that you must contact Nexus prior to travelling overseas to ascertain how you might be affected.

9.6. Promotions

- (a) From time to time Nexus may offer promotions to you on particular terms for a set period of time. These terms will be provided to you separately in writing.
- (b) The particular terms of the promotion will prevail in relation to the subject matter of the promotion, to the extent of any inconsistency with other parts of the Agreement.
- (c) Once the promotion has expired, the full terms and conditions of the Agreement will apply unless otherwise stated in writing.

9.7. Bundled Plans

- (a) Nexus may offer a group of Services as a package for discounted total Charges (compared to the total charges that would apply if you acquired the Services separately e.g. business phone and internet together)
- (b) Each Service in a Bundle is subject to a separate but dependant contract with Nexus.

- (c) If you stop acquiring any Service in a Bundle:
1. You have 'broken' the Bundle; and
 2. Nexus may bill you non-discounted Charges for the remaining Service/s in accordance with clause 9.5.

10. Credit Management

10.1. Guarantees and security

- (a) Nexus may make supply of Services conditional on you providing to it, and maintaining, security and/or third party guarantees to Nexus's reasonable satisfaction.
- (b) If Nexus becomes entitled to suspend or terminate a Service, Nexus may make the resumption of Service conditional on guarantees in accordance with the Agreement.
- (c) Nexus may use a security payment to offset any undisputed amount that you owe Nexus, and it will notify you accordingly.

10.2. Credit reports

- (a) You acknowledge that the Privacy Act 1988(Cth) allows Nexus to give a credit reporting agency certain personal information about you and by entering into this Agreement you authorise Nexus to do so. The information which may be given about you to a credit reporting agency includes the following:
- a. The fact that you have applied for credit, and the amount;
 - b. The fact that Nexus acts as a credit provider to you;
 - c. Any payments which become overdue more than 60 days;
 - d. Nexus's advice that payments are no longer overdue;
 - e. In some specified circumstances, whether you have committed a serious credit infringement;
 - f. That credit provided to you by Nexus has been discharged.

10.3. Authority for Nexus to obtain credit information

- (a) If you apply to Nexus for personal or commercial credit, you authorise Nexus or its Partners to obtain from a credit reporting agency a credit report containing personal credit information about you.

10.4. If you apply to a third party finance provider for finance to purchase Services and/or products from Nexus and that third party finance provider declines to provide you with finance for such purchase, you can either:

1. Where you propose to purchase a Bundle— with the agreement of Nexus, continue to purchase the components of the Bundle for which you will not require finance; or
2. Terminate the agreement by providing written notice to Nexus within 30 days of the order.

11. Billing and payments

11.1. Frequency

- (a) Nexus will bill you regularly either in advance or in arrears, as set out in the Service description.
- (b) The standard Nexus Billing Period is monthly, but Nexus reserves the right to vary this period at its discretion, and any such variation will be notified to you in writing.
- (c) You acknowledge that Nexus may bill you for part-periods(e.g. to align your Billing Period with the first day of each month).
- (d) Nexus may bill for Charges
- (e) In any case, Nexus may bill you for any Service it has already provided.
- (f) TCP Customers: In accordance with the provisions of the TCP Code, Nexus will issue your bill within 10 working days after closure of the Billing Period.

11.2. Contents of bill

- (a) Nexus will endeavour to include all Charges for the relevant Billing Period in an account rendered to you, but if it is unable to do so, it will include unbilled Charges in one or more later accounts in a subsequent Billing Period.
- (b) If you have one or more Services with Nexus, it may send you a single bill for all Services. It may not be possible to obtain individual bills for each of your Services.

11.3. Method

- (a) Nexus options for rendering accounts:
1. You agree that you may incur a Charge without Nexus issuing any invoice, statement or bill.
 2. You agree that Nexus need not offer payment by mail as a payment method for any Service, including for a Standard Telephone Service.
 3. If Nexus does provide an invoice, statement or bill for a Service, Nexus can send it to you in the same way as any other notice, including via your Account Page.
 4. Nexus may use a billing agent to bill you.

11.4. Extra or additional charges

- (a) Extra Charges for bills and information:
Nexus may charge you an extra Charge if:
- i. You request non-standard information about your bill or Charges, or
 - ii. You ask Nexus to deliver a bill by a method that is not the standard method for a Plan, in accordance with the information provided on your Application Form.
- (b) If you request a paper bill when that is not the standard method for a Plan, you may incur an extra monthly Charge as detailed on your Application Form.
- (c) All standard telephone plans do not include calls to 13/1300 and 18/1800 numbers. *Terminology regarding '1300/1800' and '13/18' numbers is used interchangeably but in any case refers inclusively to all 13, 1300, 18, 1800 numbers.

11.5. Out-of-pocket expenses

- (a) Nexus may notify you that, in order to supply a Service, it needs to incur out-of pocket expenses that are not included in other Charges. In that case, Nexus will not supply that Service unless you make satisfactory arrangements to pay or reimburse that expense.
- (b) TCP Customers: Nexus will only make such a Charge as provided for under clause 11.5(a) above when and as permitted by the TCP Code. Any such Charge will not be levied without Nexus first informing you of the proposed amount or the way in which it will be calculated.
- (c) You acknowledge that Nexus's Partners may charge Nexus if you report a fault and there is no such fault, or the fault lies with equipment for which the Partner is not responsible, or if you contact the Partner directly. You agree to pay or reimburse Nexus all such amounts.

11.6. GST

- (a) You must pay to Nexus on demand any GST which is payable as a consequence of any supply made under or in connection with the Agreement.
- (b) The amount paid by you to Nexus on account of GST must be sufficient to ensure that the economic benefit to Nexus remains the same whether GST applies or not.
- (c) Nexus will provide a tax invoice to you in respect of any supply to which GST may apply made under or in connection with the Agreement.
- (d) You must pay any amount you are required to pay under this clause in full and without deduction or setoff.

11.7. Over payment

(a) If you have overpaid due to a billing error:

1. Once any claimed over payment has been substantiated, your account will be credited with the verified and agreed amount overpaid before the end of the next billing period; or
2. If you no longer use the Service, Nexus will attempt to notify you using your last known contact details that you have overpaid and arrange a refund equivalent to the amount of the over payment.

11.8. Payment

(a) Regarding payments due to Nexus:

1. If you have entered into a direct debit or credit card arrangement, Nexus may debit any Charge when it is billed or becomes billable.
2. If any bill is overdue for payment, you must pay that bill and any other bill that falls due for payment immediately.
3. In any other case, you must pay a bill within 14 days after the date of the invoice rendered to you, unless otherwise stated in your Plan or Agreement.

(b) Payment methods:

1. If your Plan specifies 'direct debit only' then:
 - i. A direct debit payment is a precondition to the supply of the Service to you under that Plan. Nexus may suspend the Service if the direct debit arrangement is not maintained.
 - ii. You must not reverse any direct debit payment to Nexus without its prior written approval. If you do so, you are liable to pay Nexus's reasonable costs (including any legal fees on a solicitor-client basis) of reinstating the transaction.
2. Other than direct debit, payment methods that may be available to you are detailed on your bill, or are available on Nexus's website.
3. Payments made using American Express, Diners Club, Mastercard or Visa credit cards are subject to a surcharge, as detailed in the schedule of fees and charges or your bill.
4. If any payment is dishonoured, Nexus may charge you a reasonable fee in addition to recovering from you any bank fees and/or other costs and charges which result from the dishonoured payment.

(c) Late payment

If a bill is not paid on time:

1. You are in breach of your Agreement, and
2. Nexus may, in addition to any other amount owing, charge:
 - i. interest at 1.5% per month from the Bill Date until it is paid in full; or
 - ii. A late fee; and
 - iii. Any collection fees and expenses that Nexus incurs.

11.9. Disputed payment

In the event you dispute a Charge or invoice, subject to clause 12, you are obliged to pay the charge in full whilst the dispute is pending.

11.10 Payout Terms & Expiry

- i) If a payout is included as part of an agreement with Nexus, it is the customer's responsibility to ensure all documentation is sent to the payments team as per the instructions issued via email at the point of install and relayed here. These documents must include proof of debt and an invoice.
- ii) It is the customer's responsibility to retrieve this proof of debt and ensure the sum is correct at the point of order. Nexus will only refer to written proof of debt supplied by customer in conjunction with these terms and the rest of the agreement when determining the final amount to be paid.
- iii) An invoice is also required from the customer to be made out to Nexus for the correct payout amount – not exceeding the sum agreed to at the point of sale, and not exceeding the true payout figure given in the proof of debt. If there are multiple payouts, the total sum must not exceed the agreed figure. Any payout invoice must be presented on the customer's company letterhead and include banking details.
- iv) Nexus will only payout to return equipment, not to purchase equipment.
- v) If all the documentation specified in subsections i)-iv) is not received by Nexus's payments team within 6 months of order date, then the payout has expired and Nexus is no longer liable for any payout sum. Any terms contrary to this are overridden by this clause.
- vi) In conjunction with clauses i)-v) above, Nexus may complete a payout at any time within 3 months of receiving and processing correct documentation.

11.11 Terms:

Proof of Debt: A written document (e.g. a bill) from their supplier and/or finance company clearly stipulating "Early Termination Costs/Fees/Payment" and/or "Payout".

Point of Order: The date the customer has signed the core documents to the agreement: Order spec, Finance agreement, Application Form. If these documents have been signed on different dates, Nexus will use their discretion to elect which date is the true point of order.

Payments Team: via email to payments@redtelecom.com.au or finance@redtelecom.com.au

11.12 Accounts Payable Payment Terms

All accounts payable dealings between Nexus and any external entity are on a minimum 30-days invoice payment basis.

12. Disputes and complaints

12.1. If you have a complaint that relates to your use of the Service, including Charges, please contact Nexus first through its website or via telephone to attempt to resolve the complaint.

12.2. Nexus will handle any complaints in accordance with its complaints policy, which is available on its website.

12.3. If your complaint has not been resolved to your reasonable satisfaction, you may also contact the Telecommunications Industry Ombudsman and the relevant Department of Fair Trading in your state.

12.4. Any customer of Nexus is free to contact the TIO if they feel they have been unable to resolve a dispute via direct dealings with Nexus.

12.5 Disputes in relation to Billing must be raised within 180 days of the concern arising, otherwise Nexus reserves the right to its resolution.

13. Termination or Cancellation

13.1. Termination by Nexus

(a) Nexus may terminate a contract or suspend or limit your Service if any of the following circumstances apply:

1. You fail to pay Nexus money that is due;
2. You threaten not to pay a payment (whether the payment is currently due or will become due in the future);
3. You are in material breach of the Agreement;
4. You are the subject of an Insolvency Event;
5. Nexus reasonably believes you have vacated the Site without providing Nexus with 30 days' prior written notice;
6. Nexus reasonably considers it necessary to facilitate Network maintenance or protect the Network;
7. Continuing the Service becomes technically unviable;
8. You use the Service in a way that places unreasonable demand on Nexus's Network;
9. Nexus is unable to obtain access to the Site – and/or its surrounds for the purposes of maintaining or repairing the Service;
10. In case of emergency;
11. You have given Nexus notice that you no longer require the Service;
12. If Nexus reasonably suspects fraud or attempted fraud involving the Service.

(b) Nexus may also terminate the Service if:

1. The Service has been suspended either under this clause and the suspension has continued for a period of more than 28 days;
2. You are or become a Carrier or Carriage Service Provider under the Telecommunications Act 1997 and Nexus did not agree to provide you with the Service;
3. In any other circumstances set out elsewhere in the Agreement.

(c) Nexus may Charge you to reconnect the Service unless the termination or suspension resulted from internal error.

(d) For TCP customers:

1. Without limiting the generality of Nexus's rights of termination under the Agreement, Nexus may terminate your Service if any of the following circumstances apply:
 - i. There is a material breach of the Agreement;
 - ii. There is evidence to suggest fraud or other illegal conduct on your part, or on the part of any of your representatives;
 - iii. As provided under any applicable Fair Use Policy;
 - iv. Where termination is based on breach of another contract that is closely associated with the Agreement;
 - v. The Agreement cannot be severed or there are reasonable grounds for believing you are a credit risk.
2. For non-TCP customers, Nexus may suspend or limit your Service under this clause if the following circumstances apply:
 - i. There is a material breach of your contract;
 - ii. There is evidence to suggest fraud or other illegal conduct on your part, or the part of any of your representatives;
 - iii. As provided for under any applicable Fair Use Policy;
 - iv. Where termination is based on breach of another contract that is closely associated with the Agreement;
 - v. The Agreement cannot be severed or there are reasonable grounds for believing you are a credit risk.
3. Nexus will not suspend all Services to you indefinitely. If the suspension continues for 14 days, Nexus will either terminate your Agreement, or lift the suspension within a further 30 days.

13.2. Other 'trigger' events

(a) Nexus may terminate the Agreement or suspend performance of it and/or the Services if any of the following circumstances apply:

1. If you are an individual and you die, become bankrupt, or are the subject of an Insolvency Event; if you are a corporation and you become insolvent, make any arrangement with or for creditors and/or are placed into liquidation.
2. If Nexus has a reasonable belief that it is unlikely to receive or retain payment for amounts due and payable by you under the Agreement;
3. If, in the opinion of Nexus, a serious threat or risk exists or provision of the Service may cause death, personal injury or property damage;
4. In an emergency;
5. In order to limit it to comply with legislative or regulatory requirements.

13.3. Termination by customer

(a) You may only terminate the Agreement where:

1. You are entitled pursuant to statute, or
2. If the Plan is Fixed Term – on expiry of the stipulated term, you give Nexus 30 days' written notice of termination, or
3. If the Plan is Fixed term – before the expiry of the stipulated term, if you pay to Nexus an amount equal to the value of all remaining Charges for the remainder of the term.

13.4. You acknowledge there will be a cost to Nexus for handling the termination, which will be as published on its website from time to time. After you are notified that your application is accepted and before Nexus installs any Equipment, you will be charged a fee to the value of 10% of the total cost of your Plan (whether month-to-month or Fixed Term) if you decide not to proceed with the Plan. You agree that this fee represents a genuine pre-estimate of the loss Nexus will suffer by your not proceeding. You agree to pay this fee notwithstanding you have a right by law not to proceed with the Plan.

13.5. Post-termination

(a) If the Agreement comes to an end:

1. Any obligations owed to you by Nexus under the Agreement cease as of the expiry of the term of the Agreement;
2. All bills become payable immediately and Nexus may bill you for any Services not yet invoiced, in addition to any other amounts to which it is entitled under the Agreement;
3. Where applicable under the TCP Code, Nexus will notify you within a reasonable time of amounts that are considered to be Early Termination Fees, or any unbilled charges.
4. You authorise Nexus to recover any outstanding Charges from any over payments you have previously made;
5. Within 30 days of the expiry or termination of the relevant term, you must return to Nexus any of its Equipment under your control or Nexus may bill you a reasonable amount for the Equipment if it is not so returned;
6. Any cause of action predating the termination or expiry is not affected;
7. The limitations of Nexus's liability and indemnity under the Agreement continue;
8. No other contract is affected unless it is also terminated by Nexus;

13.6. Cancellation of your network services agreement with Nexus is permitted within 10 days of the day you signed the agreement.

13.7. In conjunction with clause 13.4 above, cancellation for any equipment component of the agreement whether for outright purchase or by way of finance is permitted prior to installation only, however a 20% restocking fee will apply for goods ordered and administrative work completed. 20% is calculated out of the total equipment price whether it is being financed in instalments or purchased outright.

14. Suspension of Service

14.1. Nexus's rights to suspend the Service

(a) Nexus may suspend the Service at any time with reasonable notice to you if any of the following circumstances apply:

1. Nexus, its Partners and/or Suppliers, need to conduct operational or maintenance work on the Network;
2. You fail to pay Nexus any undisputed outstanding amount under the Agreement by the Due Date for payment;
3. You breach a material term of the Agreement and that breach cannot be remedied;
4. You breach a material term of the Agreement and that breach can be remedied but you do not remedy the breach within 30 days of receiving written notice from Nexus requiring remedy of the breach;
5. You are the subject of an Insolvency Event;
6. Nexus reasonably suspects that you, an End User or any person in connection with the Service, has engaged in fraudulent or illegal conduct;
7. Nexus reasonably believes you may be a credit risk;
8. You are a natural person and you die;
9. There is, in Nexus's opinion, an emergency;
10. There is, in Nexus's opinion, a threat to the security or integrity of the Service or Network;
11. There is, in Nexus's opinion, a likelihood that the Service may cause death, personal injury or damage to property;

12. Nexus is otherwise entitled to do so under the Agreement.

(b) TCP Customers:

1. Nexus will only disconnect, suspend or restrict your Services without informing you for credit or debt management reasons, if there is evidence of fraudulent activity or if Nexus, in its absolute discretion, assesses you present an unacceptably high credit risk, or if you have nominated a Restriction Point and you have reached that Restriction Point.
2. Unless Nexus otherwise advises you, Nexus will not suspend your Services indefinitely. If a suspension continues for 14 days, Nexus will terminate your Agreement or lift the suspension within another 30 days.
- 14.2. Associated charges during a period of suspension
 - (a) If the Service is suspended due to a fault or breach of the Agreement caused by you, you are liable for all Charges payable under the Agreement whilst the suspension is in operation; and
 - (b) If the Service is suspended due to a failure on the part of Nexus or its Partners, you are entitled to a pro rata reduction in Charges for the period whilst the suspension is in operation.

15. Liabilities & Warranties

- 15.1. Nexus does not warrant that the Services will be free of blockages, delays, errors and/or faults.
- 15.2. Except as required by law, all terms, conditions, warranties, undertakings, inducements and/or representations relating to the provision of Services by Nexus to you are excluded.
- 15.3. Except as required by law, Nexus is not responsible for any loss and/or damage that may occur, whether direct or indirect, consequential or non-consequential arising from or out of, occasioned by or related to, anything done and/or supplied under the Agreement, and/or the Services provided by Nexus to you, or any other loss or damage however caused (whether by negligence or otherwise) which may be incurred or suffered by you or any third party.
- 15.4. Nexus's total liability is at all times limited to the re-supply of Services, or the payment of the costs of having the Services re-supplied.
- 15.5. You warrant and agree that you will not hold Nexus responsible for any loss or damage or liability, whether direct or indirect, consequential or non-consequential, and you will indemnify Nexus against any such loss or damage and/or liability in relation to you or any other third party due to circumstances including, but not limited to:
 - (a) Faults or defects in Services caused by your incorrect use, misuse or misconduct connected with the Services (including that of your employees and/or contractors);
 - (b) Any delay or default in performance of the Services to be provided pursuant to the Agreement which is caused by or arises from or out of or in connection with an event or happening reasonably beyond Nexus's control including but not limited to war, civil unrest, accidents, acts of god, industrial action, embargo, or by the delay, failure or default of any other Supplier or the Equipment, Services or technology of any other Supplier.
- 15.6. You acknowledge and agree that Nexus does not incur liability to you or any other third party for:
 - (a) Any acts or defaults of other Suppliers;
 - (b) Any faults or defects in Services which are caused to any material extent by your own conduct or misuse; nor
 - (c) Any faults or defects that arise in Services not provided under the Agreement (even if connected to Services arranged by Nexus with its consent) which are due to incompatibility with the Service.
- 15.7. Documentary error
 - (a) Any clerical or other errors or misprints in any document provided to you in connection with the Agreement may be corrected by Nexus in the following manner:
 1. Reissuing the relevant document; and / or
 2. Otherwise giving you notice of the error or misprint.
 - (b) You are not entitled to any reduction or variation to any Charges because of any documentary errors.

16. Assignment to a third party

- 16.1. Subject to clause 2.2, Nexus may assign all or part of its rights and/or obligations under the Agreement to any third party without your consent.
- 16.2. You may not assign all or part of your rights and/or obligations under the Agreement without Nexus's prior written agreement.

17. General

- 17.1. Interpretation
 - (a) A reference to a law includes any amendments to that law, and any applicable regulations;
 - (b) A reference to any document includes a reference to future modifications to that document.
- 17.2. Governing law
 - (a) The Agreement is governed by and construed in accordance with the laws of the State of New South Wales and the parties submit to the exclusive jurisdiction of the courts of New South Wales and the Commonwealth of Australia.
- 17.3. TCP Customers
 - (a) The Agreement is governed by and construed in accordance with the laws of your State or Territory of residence and you submit to the exclusive jurisdiction of the courts of that State or Territory and the Commonwealth of Australia.
 - (b) Nexus will provide your Services in accordance with the provisions of the TCP Code.
- 17.4. Notices
 - (a) Nexus may provide you with any written notice in connection with these Customer Terms by sending the notice to you in accordance with the methods indicated on your Application Form.
- 17.5. No waiver
 - (a) Any failure or delay by Nexus in exercising any power or right conferred under the Agreement does not operate as a waiver of the power or right.
- 17.6. Intellectual Property ('IP')
 - (a) Nexus retains all IP rights in any software, manuals or user documentation supplied with any Equipment or otherwise under the Agreement, in addition to any material directly created by or for it for the purposes of supplying you with the Services under the Agreement.
- 17.7. Commission
 - (a) Nexus may pay a commission to any agent, employee, contractor or dealer in connection with the supply of the Services and the Agreement.
- 17.8. Carrier /Carriage Service Provider
 - (a) You acknowledge that you are not a Carrier or Carriage Service Provider at the time of entering into the Agreement; and
 - (b) Nexus, its Partners or its Suppliers may immediately cancel the Service and terminate the Agreement with notice to you in accordance with the Agreement if, during the Service Term, you become either a Carrier or Carriage Service Provider.
- 17.9. Provision of Services by Nexus's Partners
 - (a) You acknowledge that if Nexus terminates an arrangement with any of its Partners that it uses to supply your Service, Nexus's Partner/s may arrange to supply you with the Service directly; and
 - (b) The Charges under the Agreement may be substituted with the applicable fees and charges of Nexus's Partner/s.

17.10. Your rights:

(a) You can obtain further information about your rights by contacting ACMA (Australian Communications and Media Authority), TIO (Telecommunications Industry Ombudsman), ACCC (Australian Competition and Consumer Commission) or the Department of Fair Trading or Consumer Affairs in your State or Territory.

17.11. Logo Usage

(a) You acknowledge that by signing with Nexus, you grant Nexus permission to use your company logo on Nexus's website and marketing materials.

17.12. Website Usage

(a) By submitting your details for a free article, you grant Nexus permission to email you. Your details will not be provided to a third party. You can unsubscribe from the emails at anytime, by clicking unsubscribe in any future email you receive or by replying back with 'unsubscribe'.

17.13. Sales and Marketing

(a) It is ultimately your (the consumer's) responsibility to research the most appropriate offering as Nexus reserves the right on its sales and marketing efforts.

18. Relocations

18.1. You acknowledge that a minimum of 2 months' notice is required to relocate network services & equipment.

18.2. The customer bears the responsibility of supplying the correct details for their new site address.

18.3. The designated installation date may not coincide with the customer's required date. The date is to be allocated by the Network Provider.

18.4. Nexus Pty Ltd is not liable for any loss or inconvenience caused by a delay between the dates as per clause 8.3.

18.5. You accept that selected services may require a new line to be installed at the new site address. You will be advised if this is the case once your relocation request is received.

18.6. The customer is liable for the cost of installing any new lines where necessary as per clause 8.5.

18.7. You accept that Nexus is not liable for any time lapse in relocation that is caused by the Network Provider.

Term	Definition
Account Page	A web page or facility Nexus may provide that permits you to view and/or manage details of your account
Agreement Date	The date Nexus confirms that it agrees to provide the Service
Application Date	The date you submit your application to Nexus
Bill Date	The date indicated on a bill issued to you by Nexus
Billing Period	The period of time between accounts rendered
Bundle	A grouping of Services and/or products together for the purpose of supplying them as a group
Bundled Equipment	Equipment you may be supplied under some of Nexus's Plans without paying its full purchase price on delivery.
Application Form	The form you submit to Nexus to order a Service
Business Day	Monday to Friday excluding public holidays
Business Hours	9am – 5pm on any Business Day
Carriage Service	A service for carrying communications by means of guided and/or unguided electromagnetic energy.
Carriage Service Provider	As defined under section 87 of the Telecommunications Act 1997
Carrier	A holder of a carrier licence granted under Part 3 of the Telecommunications Act 1997
Charges	Charges and fees as charged by Nexus from time to time
Customer Services	Nexus's customer services available through its website or office
Customer	You, the applicant under the Application
Delivery Date	The date specified by Nexus for the Equipment to be delivered to the Site
Due Date	A stated or stipulated date
End User	A person who makes use of a Service with your consent, from your premises or using your Equipment and password
Equipment	Equipment supplied to you by Nexus for use in the Service, unless otherwise stated
Ethernet Bitstream	Ethernet access services delivered using our network. The Ethernet Bitstream is available with best effort traffic class or Traffic Class 4 (TC4) only. Other traffic classes are not supported
Facilities	Any part of the infrastructure of a telecommunications network, or any line, cable, optical fibre, equipment, apparatus, tower, mast, antenna, dish, tunnel, duct, hole, pit, pole, or other structure in connection with a telecommunications network.
Fair Use Policy	Nexus's policies from time to time providing for how a Service and/or Plan is to be used, over and above the terms of the Agreement. A copy can be found on Nexus's website.
Fixed Term	A stated and/or fixed period of time
GST	Goods and Services Tax and has the same meaning given under the GST Act
GST Act	A New Tax System (Goods and Services Tax) Act 1999 (Cth) as amended from time to time or any act passed in substitution for or replacement of that Act
Insolvency Event	In the case of a company, other incorporated entity, partnership or trustee of a trust, any of the following occurring: (a) An administrator, receiver, liquidator or similar being appointed over the entity or any of that entity's assets; (b) The entity entering into an assignment, arrangement or composition of its debts with its creditors; or (c) A demand being served on the entity in accordance with s459E of the Corporations act 2001 (Cth) and the entity does not commence proceedings to set aside the demand within 21 days; (d) A change in the membership or control of the entity without the other
Local Number Portability	Being able to change your phone company that provides you with your local calls without changing your telephone number(s), as provided under the Local Number Portability code (C540:2013)
Maintenance Service Schedule	The schedule of maintenance provided by Nexus from time to time
Maximum Data Rate	The size of the file per second of data, usually expressed in kilobits or megabits per second. The maximum data rate may vary depending on the Network and Suppliers
Minimum Term	The minimum period for a Plan, if any
Network	A system, or series of systems, that carries, or is capable of carrying, communications by means of guided and/or unguided electromagnetic energy and as referred to in clause 4.5.
Off-peak	A period of time each day when fewer people are using the Network. You may be charged less to use the Service during this time
Application form	The specification of Services you have ordered in your Application Form
Partner	Third Party Suppliers of Services and Equipment who have a contractual relationship with Nexus for the purposes of provision of the Services
Partner Facilities	Facilities managed, maintained or used by a Partner
Peak	A period of time each day when large volumes of people are using the Network at a time. You may be charged more if you use the Service during this time

Personal Information Plan	Has the meaning as defined in the Privacy Act 1988 (Cth) Features, entitlements, charges, special conditions and other contractual requirements supplied in connection with a Service
Port/Porting/Ported	Taking your telephone number to another phone company
Privacy Act	Privacy Act 1988 (Cth)
Privacy Policy	Nexus's privacy policy accessible on its website
Rate Sheet	Nexus's rate sheet of standard rates from time to time
Regulator	ACMA, ACCC, TIO, CAL and any other relevant statutory body or authority
Restriction Point	An amount nominated by a TCP Customer for the purposes of managing the monthly amount spent on their Customer account.
Service	Services supplied by Nexus unless otherwise specified, being: (a) A Standard Telephone Service as defined in Section 6 of the Telecommunications (Consumer Protection and Service Standards) Act 1999; (b) A carriage service as specified in the Telecommunications Regulations 2001 (including internet services), and (c) Ancillary goods or services of a kind specified in the Telecommunications Regulations 2001
Service Term	The term of any Service specified in your Application Form
Service Start Date	The date Nexus notifies you the Service is available for use
Site	The address you provided on your Application Form
Spam	Unsolicited electronic messages as understood under the Spam Act 2003 (Cth), being messages sent using an internet or other listed carriage service to an email, instant messaging, telephone or similar account, that are prohibited under that Act
Special Promotion	An offer of limited duration, limited quantity or offered to a limited sub-set of Consumers, (for example, a once-off promotion for members of a local gym or a special discount for the staff of a business customer of a Supplier), such as Discounts off Telecommunications Goods or components of Telecommunications Services
Standard Access	Nexus and their Suppliers' standard access portfolio, utilising access technologies such as ADSL/ADSL2+ and Ethernet Bitstream with best effort traffic class
Standard Telephone Service	As defined under section 6 of the Telecommunications (Consumer Protection and Service Standards) Act 1999
Supplier	A Carriage Service Provider, as in the Telecommunications Act 1997 (Cth)
TCP Code	Telecommunications Consumer Protections Code (C628:2012)
TCP Customer	An individual, business or non-profit organisation which has or will have an annual spend with Nexus which is no more than \$20,000
Telecommunications Act	Telecommunications Act 1997 (Cth)
Telecommunications Numbering Rules	Such rules as may exist from time to time under statute, governing the issuing and management of telephone numbers in Australia