

# JBO Communications Terms and Conditions

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## 1 Service

- 1.2 **Provision of Service:** Upon acceptance by JBO Communications of the Order Form, JBO Communications agrees to provide and you agree to acquire the Service as is set out in the Order Form. The Service will be activated on the later of the date on which JBO Communications is able to provide the Service and your requested activation date nominated in the Order Form.
- 1.3 **Service Levels:** JBO Communications does not warrant that the Service will be uninterrupted or fault free. JBO Communications will use its best endeavours to meet the Service Levels and, if it fails to meet those Service Levels, will provide a Service Credit in accordance with the terms set out in the Service Level Agreement.

## 2 Period of Agreement

- 2.2 The Agreement commences on the acceptance by JBO Communications of the Order Form.
- 2.3 The Agreement will continue until the end of the Minimum Service Period and thereafter on a month-to-month basis unless it is earlier terminated in accordance with this Agreement. After the expiry of the Minimum Service Period, either party may terminate this Agreement by providing to the other not less than 30 days written notice.

## 3 Customer Obligations

- 3.2 **Ensure Proper use of the Service:** You must comply with all laws, regulations, standards and codes applicable to the telecommunications industry in Australia. You agree that you will not knowingly, or by any negligent act or omission:
- (a) use or permit the use of the Service in any manner which constitutes a violation or an infringement of any duty or obligation in contract, tort, or otherwise to any third person;
  - (b) use or permit the use of the Service in connection with the commission of an offence against the laws of the Commonwealth or the States or Territories;
  - (c) use or permit the use of the Service for the transmission of any defamatory, offensive, abusive, indecent, spam or menacing material or the making of any hoax call or in any other manner in contravention of the Acceptable Use Policy;
  - (d) use or permit the use of the Service in connection with the transmission of any computer virus that may adversely affect the JBO Communications Equipment, the JBO Communications Network, the equipment or network of any third party provider to JBO Communications or any network users;
  - (e) use or permit the use of the Service to engage in any activities in a manner that may expose JBO Communications or any third party provider to the risk of any legal or administrative action including prosecution under any law; or
  - (f) interfere or attempt to interfere with the operation of: the Service, Service Number or an IP address; any JBO Communications Equipment; the JBO Communications Network or the equipment, network or IP Addresses of any other person.



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- 3.3 **Regulatory Compliance Issues:** You must comply with all reasonable requests for assistance that we make of you to help us to comply with our regulatory obligations, including, in particular, requests relating to:
- (a) providing information to the police and other law enforcement agencies;
  - (b) the provision of emergency services; and
  - (c) the provision of information to telecommunications users from time to time regarding alterations in numbering plans, industry codes and other industry developments.
- 3.4 **Assistance:** Sometimes it may be impossible for us to provide the Service to you without your co-operation. You will do everything reasonable to help, and co-operate with, JBO Communications and any person engaged by JBO Communications to provide to you the Service at the location. The kinds of assistance we may require from you include:
- (a) ensuring that it is possible and safe for us and persons engaged by us to obtain necessary access to a location (including for any emergency);
  - (b) ensuring that relevant people are available and give to us timely instructions;
  - (c) ensuring that Customer Equipment is ready at the appropriate times;
  - (d) at your own expense and following our reasonable instructions, making any modifications to Customer Equipment reasonably necessary to enable us to provide the Service;
  - (e) obtaining and maintaining any authorisation, permission, licence, waiver, registration or consent from any person necessary for you to request to enable us to provide the Service;
  - (f) informing JBO Communications of the location of JBO Communications Equipment; and
  - (g) working together with JBO Communications to establish procedures to reduce fraud or the opportunity for fraud in relation to the Service.
- 3.5 **Reporting and Inspections:** Sometimes we need to obtain information from you. You agree to supply to us or our nominated agent any information reasonably requested by us relating to you and your business of providing communications services:
- (a) for credit management purposes (see also clause 9);
  - (b) to enable JBO Communications to monitor and help reduce the incidence of fraud;
  - (c) to assist JBO Communications in complying with its regulatory obligations and its obligations to report on compliance with those obligations;
  - (d) to assess whether or not you have complied, are complying and will be able to continue to comply with all obligations imposed on you under this Agreement; and
  - (e) for other purposes reasonably required by JBO Communications from time to time and agreed by you.



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## 4 Equipment

- 4.1 **JBO Communications Equipment:** If required for the provision of the Service, we will supply to you JBO Communications Equipment. You should understand that you are responsible for the JBO Communications Equipment and must compensate us for any loss or damage to it (unless we cause such loss or damage). If you become aware of any loss of, damage to, claim over, or malfunction of the JBO Communications Equipment, you must notify us immediately. We may, at any time and at our cost, modify or replace JBO Communications Equipment provided there is no material adverse impact on our provision to you of the Service. In respect of JBO Communications Equipment, you must:
- (a) provide an adequate power supply and a suitable physical environment in accordance with JBO Communications's reasonable directions;
  - (b) only permit JBO Communications Equipment to be repaired, serviced, moved or disconnected by JBO Communications unless otherwise permitted by JBO Communications in writing;
  - (c) not remove or obscure any identification marks on JBO Communications Equipment;
  - (d) make title to JBO Communications Equipment clear to all persons;
  - (e) comply with all reasonable instructions given by JBO Communications to protect JBO Communications's ownership of the JBO Communications Equipment; and
  - (f) not do anything or allow anything to be done which might affect JBO Communications's ownership of the JBO Communications Equipment.
- 4.2 **Customer Equipment:** You are responsible for the installation of Customer Equipment and connections to the JBO Communications Network necessary for us to provide the Service. You must ensure that Customer Equipment does not have a detrimental effect, as determined by JBO Communications, on the JBO Communications Network and accords with all relevant laws.
- 4.3 We may, without liability, immediately disconnect all or any of the Customer Equipment if:
- (a) you do not fulfil any of your obligations under this Agreement; or
  - (b) JBO Communications reasonably considers that Customer Equipment may:
    - (i.) cause death or personal injury;
    - (ii.) cause damage to the property of JBO Communications or another person; or
    - (iii.) materially impair the operation of the JBO Communications Network,provided that, where practicable, we will notify you of our intention to disconnect. You will provide JBO Communications with access to the location where Customer Equipment is located to permit JBO Communications to disconnect Customer Equipment in accordance with this clause 4.3.

## 5 Not for Resale

- 5.1 You may only make use of, resell or re-supply the Services as a component or element of another service supplied by you to your customers.



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## 6 Charges and Payment

- 6.1 The charges for the Service are set out in the Order Form. Your obligation to pay for the Service will accrue on and from the Service Commencement Date. You will be sent an invoice for the Service each calendar month and you must pay each Invoice in Australian dollars within 14 days of the Invoice Date (Due Date).
- 6.2 If we have omitted Charges from an Invoice for any reason, we may include such Charges in a later Invoice provided that these Charges are invoiced to you within 3 months of the due date of the Invoice in which the Charges should have been included.
- 6.3 Unless you establish otherwise, there is a presumption that records held and call logging procedures adopted by JBO Communications or any other third party provider with which the JBO Communications Network is interconnected are correct and that the Charges have been incurred and are payable by you.
- 6.4 If you dispute the validity of any Charges in an Invoice:
- (a) you must notify us in writing of the reasons for the dispute within 40 days of the date of that Invoice;
  - (b) you must pay the full amount of the Charges in the disputed Invoice unless you have notified us in writing of the reasons for the dispute within 7 days of the date of that Invoice and will pay the undisputed portion of the Charges in the Invoice by the Due Date of that Invoice;
  - (c) we will acknowledge your dispute within 5 Business Days of receiving your notice and will undertake a reasonable level of enquiry in regard to the dispute, including the making of further enquiries with you and any relevant third party provider with which the JBO Communications Network interconnects;
  - (d) where possible, we will advise you within 5 Business Days of receiving your notice of dispute of the complexity of the investigation and a timeframe for possible for final determination;
  - (e) we will endeavour to have your dispute resolved within 30 days of receiving your notice of dispute but, if that is not possible as a result of the complexity or circumstances of your dispute, we shall keep you informed as to the expected timeframe for finalisation;
  - (f) where a resolution is that the disputed amount is payable to us, you shall pay such amounts within 5 Business Days of receiving notice of our resolution; and
  - (g) if you disagree with the determination, you will be entitled to engage the dispute resolution mechanisms set out in clause 16 below.
    - (i.) If you fail to pay when due any amount, we will be entitled to:
      - (h) charge interest on the overdue amount (both before and after judgment), at the rate of 2% above the corporate reference rate of the National Australia Bank. This interest will be calculated daily and compounded every 30 days;
      - (i) impose a charge to cover its reasonable expenses and costs incurred in enforcing any failure or delay in your payment (including the cost of engaging a debt recovery agent); and
      - (j) suspend provision of the Service to you in accordance with clause 10 below.
        - (i.) JBO Communications may apportion non-traffic sensitive Charges on a daily basis for the balance of any partial billing cycle due to the Service Commencement Date or the termination date falling part way through a billing period.



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## 7 GST and Other Taxes

- 7.1 The Charges do not include any GST. JBO Communications will include on each invoice a separate amount for the GST payable in respect of the Charges in the invoice.
- 7.2 You must pay all taxes (including any goods or services tax or any equivalent thereof), duties, stamp duties, impost, levies or government charges relating to this Agreement, the supplied Services, provision of the JBO Communications Equipment and, where relevant, the sale of the Purchased Equipment. Should there be an introduction of any new tax, duty, levy or government charge relating to any charges (including Charges) under this Agreement, you must pay JBO Communications for such taxes, duty, levy or government charges imposed under such relevant legislation.

## 8 Variation of Agreement

- 8.1 Sometimes we may want to change the Charges or Terms and Conditions applicable to the Service. We may, after the expiry of the Minimum Service Period vary the Agreement. We will do this by giving to you written notice of the variation (a Variation Notice). If we give you a Variation Notice and you do not accept the variation, you must notify us in writing within 20 Business Days from the date of the Variation Notice. If you fail to do so, you will be deemed to have accepted the variation and the new terms and conditions will take effect from the next billing period after the Variation Notice was given.
- 8.2 If you notify JBO Communications that you do not agree to the variation, you and we must discuss the proposed variation in good faith. If no agreement on a variation arises within a further 10 Business Days, either party may terminate the Service upon the giving of a further 20 Business Days' notice. For the duration of the further notice period, the terms and conditions applicable immediately preceding the delivery of a Variation Notice will continue to apply.

## 9 Creditworthiness

- 9.1 We realise that it may be important to you that you have with us credit terms rather than cash terms. As such, it may become important for us to assess the creditworthiness of our customers before accepting orders. We also may, from time to time, review your creditworthiness. In doing so, we may seek from you or an independent person such as a credit reporting agency or credit provider information or advice to assist us in a creditworthiness review.
- 9.2 You agree promptly to cooperate with a review by:
- (a) providing to JBO Communications any information (including a completed JBO Communications Commercial Credit Application form) JBO Communications reasonably requires to conduct any such review; and
  - (b) giving to us permission (which permission is by the signing of the Order Form granted) to communicate with credit reference associations about your credit history.
  - (c) The information sought in this clause can include any information reasonably required by JBO Communications about your creditworthiness, credit standing, credit history or credit capacity that credit providers are allowed to give or receive under the Privacy Act 1988 (Cth).



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- 9.3 You warrant that all material information that you provide to JBO Communications in any creditworthiness review will provide a true and fair view of your financial position at the time it is provided to us, and that all other information is accurate and complete.
- 9.4 You are entitled to see and to correct any credit information that JBO Communications holds about you.
- 9.5 You authorise us to share information obtained in connection with the supply of the Service to any of our Related Bodies Corporate for any internal credit review purposes, including ongoing account management.

## 10 Service Suspension

- 10.1 There may be occasions when we are required to suspend the provision to you of part or all of the Service. We will be entitled to suspend the provision of the Service to you:
- (a) immediately and, because of the urgency of the need, without prior notice, where:
    - (i.) we are required to undertake the repair, maintenance or service of any part of the JBO Communications Network (or an interconnected third party provider is required to undertake such work on its network) to attend to any emergency;
    - (ii.) it is reasonably required to reduce or prevent fraud or interference within the JBO Communications Network;
    - (iii.) we believe it is necessary to do so to comply with any law or an order, instruction or request of government, the ACA, emergency services or other competent authority;
    - (iv.) a Force Majeure Event occurs which materially affects our ability to provide the Service; or
  - (b) upon giving 3 Business Days' notice where you are in breach of clause 3, clause 4, or clause 9.2, such suspension to continue for so long as the breach subsists or until termination of this Agreement; or
  - (c) immediately by notice if you fail to pay an Invoice by the date which is 14 days after the Invoice's Due Date, such suspension to continue for so long as the breach subsists or until termination of this Agreement.

## 11 Termination

- 11.1 A party may, at its election, terminate this Agreement:
- (a) immediately by written notice to the other party if a receiver, liquidator, provisional liquidator or administrator is appointed over any of that other party's undertakings or assets and that appointment continues for a period of 5 Business Days, or if that other party enters into any arrangement with any of its creditors or any class of such creditors or if that other party ceases to carry on business;
  - (b) immediately by written notice to the other party if that other party breaches any other provision of this Agreement which is capable of remedy and does not rectify that breach within 30 days of receiving written notice from the other party requesting it to do so.
- 11.2 JBO Communications may immediately, by giving notice to you, terminate this Agreement if:





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- (a) following a suspension of the Service under clause 10.1(b) or 10.1(c), you fail within 14 days of the commencement of the suspension to rectify the breach giving rise to the suspension; or
  - (b) you commit persistent breaches of this Agreement, in particular, the Acceptable Use Policy;
  - (c) you are in breach of a licence, permit or authorisation relating to the use of or connection of equipment to the relevant access line, or the use of Services;
  - (d) JBO Communications reasonably suspects that you have suspended payment of your debts generally;
  - (e) JBO Communications reasonably suspects fraud in respect of, or misuse of, the Service by you;
  - (f) a licence, permit or authorisation required by you to conduct the business of providing telecommunications services is terminated, revoked or expires; or
  - (g) a force majeure event which continues for more than 20 Business Days.
- 11.3 Each party must notify the other party immediately if any event referred to in clause 11.1(a) occurs or any step towards the occurrence of such event occurs.

## 12 Effects Of Termination

- 12.1 On termination of this Agreement:
- (a) your right to use the Service ceases;
  - (b) if JBO Communications requests, you must immediately inform JBO Communications of the specific location of any JBO Communications Equipment;
  - (c) you must immediately cease using and return to JBO Communications the JBO Communications Equipment used in relation to that Service and, if you do not comply, you must, subject to any usual security arrangements, permit, or procure permission for, JBO Communications to access the location at which that JBO Communications Equipment is situated at any time or times for the purpose of removing that JBO Communications Equipment;
  - (d) you must immediately pay to JBO Communications, without deduction or set off, all outstanding Charges and any other amounts payable to JBO Communications under this Agreement at the date of termination; and
  - (e) JBO Communications will refund to you the balance (if any) of any Charges or other money paid in advance to JBO Communications under this Agreement after deducting all amounts payable to JBO Communications under sub-clauses 12.1(d) above.
- 12.2 If the Service is terminated by you before the expiry of the Minimum Service Period then, subject to clause 12.3, you will be liable to pay, by way of liquidated damages, the Early Termination Charge in addition to any accrued charges. The Early Termination Charge shall be the total of the amount of Charges that would have applied from the date of the termination up to the expiry of the Minimum Service Period. If an Order Form identifies any free service period, discount or other price break, the Early Termination Charge will include that amount which you save from the usual Charges by reason of the free service period, discount, or other price break.
- 12.3 We agree that you will not have been liable to make payment of an amount in whole or part satisfaction of the Early Termination Charge if, at the conclusion of the dispute resolution procedures set out in clause 16, you are found to have been entitled to terminate the Agreement under clause 11.1.



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- 12.4 Termination of this Agreement does not affect the accrued rights or liabilities of either party nor does it affect the provisions which expressly or by implication are intended to operate after termination, including, without limitation clause 4.1 (JBO Communications Equipment); clause 14 (Liability and Insurance); and clause 15 (Confidentiality).

## 13 Force Majeure

- 13.1 Neither party will be liable to the other party for any failure to perform or delay in performance of any obligation under this Agreement caused by a Force Majeure Event (other than an obligation to pay money). Each party will provide notice of the date of commencement of a Force Majeure Event and the date of cessation of a Force Majeure Event.

## 14 Liability & Insurance

- 14.1 You must take out, and maintain during the term of this Agreement a valid and enforceable public liability insurance policy that provides coverage of at least \$10 million per occurrence and on request by JBO Communications from time to time, immediately provide JBO Communications with a certificate of currency in respect of that policy.
- 14.2 Despite any other provision of this Agreement, JBO Communications will not be liable to you, or any person claiming through you, in contract, tort, or otherwise (including negligence) for any loss or damage arising from suspension or termination of the Service in accordance with, as the case may be, clause 10 or 11 or any failure to perform or delay in the performance of any obligation due to an event described in clause 10.1(a).
- 14.3 You agree that no supplier of telecommunications services to JBO Communications is liable to you in respect of JBO Communications's supply to you of the Services.
- 14.4 You acknowledge that:
- (a) JBO Communications does not warrant that JBO Communications will be able to supply the Service uninterrupted or fault free;
  - (b) except for any rebate that must be paid as a result of a failure by JBO Communications to achieve a Service Level, JBO Communications is not liable to you or any other person for any failure for any reason to provide part or all of the Service.
- 14.5 JBO Communications:
- (a) excludes all conditions and warranties implied into this Agreement to the extent permitted by law;
  - (b) excludes any liability to you for any indirect, special or consequential loss, costs, or damage (including, but not limited to, loss of profits, loss of revenue, loss of data, loss of bargain, damage to reputation and expectation loss) arising out of this Agreement, including, but not limited to, JBO Communications's supply of, delay in supply or failure to supply the Service, whether arising as a result of any act, omission or negligence of JBO Communications or otherwise; and
  - (c) limits its liability for any breach of any such condition or warranty that cannot be excluded at law to the greater (at JBO Communications's option) of:
    - (i) if the breach relates to goods:
      - (A) repairing or replacing those goods; or





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- (B) paying the cost of having those goods repaired or replaced; and
  - (ii.) if the breach relates to services:
    - (A) resupplying those or equivalent services; or
    - (B) paying the cost of having the services resupplied.
- 14.6 Nothing in this clause 14 is intended to limit JBO Communications's liability for claims relating to personal injury (including sickness, death or disability) of you or your employees directly resulting from JBO Communications's negligent acts or omissions arising under this Agreement.
- 14.7 Subject to clauses 14.4 and 14.5, JBO Communications is only liable for:
  - (a) if the loss or damage arises out of or is related to a failure by JBO Communications to meet Service Levels set out in the Service Level Agreement, the compensation or other remedy specified in the Service Level Agreement; and
  - (b) in respect of any liability which is not otherwise limited and which may arise out of or in connection with this Agreement, (whether based in contract, tort (including negligence) statutory duty or otherwise) an amount which is:
    - (i.) 50% of the Charges received by JBO Communications for the Service for the 12 months preceding the event giving rise to the liability for each event or series of connected events; and
    - (ii.) in the aggregate, the amount of Charges received by JBO Communications under this Agreement.
- 14.8 JBO Communications's liability under this Agreement is diminished to the extent that your acts or omissions (or those of a third party engaged by JBO Communications) contribute to or cause the loss or liability.
- 14.9 You indemnify JBO Communications on demand against any claim or liability arising from your acts or omissions, or the acts or omissions of a third party acting on your behalf or engaged by you in any capacity, relating to the use of the Service.
- 14.10 In this clause 14, a reference to JBO Communications includes each of its Related Bodies Corporate, and JBO Communications's employees, agents and contractors.

## 15 Confidentiality

- 15.1 Each party acknowledges that the Confidential Information of the other party is confidential and secret and each party must preserve the confidential and secret nature of the other party's Confidential Information.
- 15.2 A party must not:
  - (a) disclose or copy the other party's Confidential Information (including the terms and conditions of this Agreement) for any purpose other than as contemplated by this Agreement, including without limitation, a disclosure to a competitor or potential competitor of JBO Communications;
  - (b) make the other party's Confidential Information available to any third party, other than to its employees with a need to know the information to enable the Service to be used in the manner contemplated by this Agreement (but only to the extent that the employee needs to know), or
  - (c) use the other party's Confidential Information for any purpose other than as contemplated by this Agreement.



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- 15.3 Neither party may use in any way any the name, logo, trade mark, registered design, or copyright material of the other party without having first obtained the written consent of the owner of the property to such use. Neither party will issue a press release, or make any public announcement, concerning the existence of, or any fact arising out of, or connected to, this Agreement or the other party without first having obtained the prior written consent of the other party to the terms of such press release or announcement.

## 16 Disputes

- 16.1 Before resorting to external dispute resolution mechanisms, the parties must seek to resolve any dispute in relation to this Agreement by referring the matter to the respective chief executive officers of the parties or their nominees.
- 16.2 If the parties cannot resolve the dispute in accordance with clause 16.1 within 60 days, either party may refer the dispute to mediation by the Australian Commercial Disputes Centre (ACDC) for resolution in accordance with the Guidelines for Commercial Mediation of the ACDC.
- 16.3 Nothing in this clause prevents a party from seeking interlocutory relief.

## 17 Notices

- 17.1 For a notice under this Agreement to be effective, it must be
- (a) in writing;
  - (b) addressed to the contact person of the other party; and
  - (c) personally delivered, or sent by prepaid post, to the address or by fax to the fax number, to the address or fax number stipulated for each party in the Order Form or last notified by each party to the other in writing.
- 17.2 A notice given in accordance with clause 17.1 is received:
- (a) if left at the recipient's address, on the date of delivery;
  - (b) if sent by prepaid post, five days after the date of posting; and
  - (c) if sent by fax, when the sender's fax system generates a message confirming successful transmission of the total number of pages of the notice unless, within eight Business Hours after that transmission, the recipient informs the sender that it has not received the entire notice, and

for the avoidance of doubt, the parties agree that the service of notice by electronic mail is not valid for the purposes of this Agreement.

## 18 General

- 18.1 Headings are for ease of reference only and not as an aid to interpretation.
- 18.2 Neither party may assign or attempt to assign or otherwise transfer any right or obligation arising out of this Agreement without the written consent of the other party (which consent may not be unreasonably withheld or delayed), except that JBO Communications may sub-contract the provision of part of the Service and may, at its discretion, assign its rights and obligations under this Agreement to any Related Body Corporate.
- 18.3 Nothing in this Agreement or any circumstances associated with it or its performance give rise to any relationship of partnership, employer and employee or principal and agent between JBO Communications and you.



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- 18.4 JBO Communications may set off or apply any credit balance in any of your accounts with JBO Communications or any amounts owed by JBO Communications to you against any amount due and payable by you to JBO Communications.
- 18.5 Failure by either party to exercise or enforce any right conferred by this Agreement will not be deemed to be a waiver of any such right nor operate so as to bar the exercise or enforcement of the right or of any other right on any later occasion.
- 18.6 If part or all of any clause of this Agreement is illegal, invalid or unenforceable it will be read down to the extent necessary to ensure that it is not illegal, invalid or unenforceable or if this is not possible, the affected clause or part will be severed from this Agreement, the remaining provisions of this Agreement will continue to have full force and effect and the parties will attempt to replace that severed part with a legally acceptable alternative clause that meets the parties' original intention in relation to the subject matter severed.
- 18.7 The Agreement constitutes the entire agreement between the parties as to its subject matter and supersedes any prior understanding or agreement between the parties (including any Memorandum of Understanding) and any prior condition, warranty, indemnity or representation imposed, given or made by JBO Communications.
- 18.8 The Agreement is governed by the laws applicable in the State of New South Wales in the Commonwealth of Australia and each party irrevocably submits to the non-exclusive jurisdiction of the courts of that State.

## GLOSSARY

**ACA** means the Australian Communications Authority.

**Acceptable Use Policy** means the acceptable use policy published on JBO Communications's website ([www.jbo.com.au](http://www.jbo.com.au)) which may be modified by JBO Communications from time to time provided that such modifications are reasonable.

**Agreement** means this agreement for the provision of the Services between JBO Communications and the Customer, comprising in their order of precedence, these Terms and Conditions, the Order Form, the relevant Service Level Agreement and any other document incorporated by reference or agreed in writing by the parties.

**Business Day** means a day on which banks (as defined in the Banking Act 1959 (Cth)) are open for general banking business in the location in which the Services are being provided, excluding Saturdays and Sundays.

**Business Hours** means the hours between 9.00am and 7.00pm on any Business Day.

**Charges** means the charges for the Service (as set out in the Order Form), which are payable by the Customer in accordance with clause 6.

**JBO Communications** means JBO Communications Australia Pty Ltd (85 089 726 358) of 57 Currans Hill Drive, CURRANS HILL NSW 2567.

**JBO Communications Equipment** means equipment (if any) of JBO Communications or a supplier to JBO Communications located on your premises (including premises leased by you or co-location spaces licensed by you) for the provision of the Service.

**JBO Communications Network** means a telecommunications network of JBO Communications.



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**Confidential Information of a party** means information (including this Agreement), know-how, ideas, concepts, and industrial knowledge, in whatever format, of that party, other than information which:

- (a) is generally available in the public domain without a breach of confidence or unauthorised disclosure by either party.
- (b) is lawfully disclosed by a third party without restriction on disclosure; or
- (c) is required by law or the Australian Stock Exchange to be disclosed.

**Customer** means the customer identified in the Order Form.

**Customer Equipment** means all equipment and facilities located on the Customer side of the Network Termination Point other than JBO Communications Equipment used in connection with the Service.

Early Termination Charge means the charge calculated in accordance with clause 12.2.

Force Majeure Event means:

- (a) fire, flood, earthquake, elements of nature or act of God;
- (b) riot, civil disorder, rebellion or revolution; or
- (c) other matter outside of the reasonable control of the non-performing party,

but in each case only if, and to the extent that, the non-performing party is without fault in respect of the default or delay and the default or delay could not have been prevented by taking steps specifically required under this Agreement.

**GST** has the same meaning as in A New Tax System (Goods and Services Tax) Act 1999 (Cth).

**Invoice** means an invoice rendered by JBO Communications to the Customer which records the Charges payable for the relevant Services.

Invoice Date means the date that an Invoice for the Charges is:

- (a) in the case of paper Invoices, printed by JBO Communications;
- (b) in the case of electronic Invoices, sent by JBO Communications to the customer by electronic means.

**IP Address** means an internet protocol address.

**Minimum Service Period of the Service** means the minimum supply period (if any) specified in the Order Form from the Service Commencement Date.

**Network Termination Point (or NTP)** means the point, designated by JBO Communications, at which the JBO Communications Network connects to:

- (a) equipment or cabling of the Customer; or
- (b) cabling of a third party where it is being used to convey the Service to Customer Equipment,

or, if JBO Communications fails to designate that point, the NTP as defined in the Telecommunications Act.

**Planned Outage** means a period of time that JBO Communications may interrupt the supply of Services to the Customer other than an interruption which is less than 100 milliseconds in duration (a Nominal Outage) for routine maintenance or up-grading or other similar processes, after giving the Customer 5 days prior notice, which outage does not exceed the period of time specified in that notice.



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**Related Body Corporate** has the meaning given to it by sections 9 and 50 of the Corporations Law.

**Service** means a telecommunications service identified in, and to be delivered pursuant to, an Order Form.

**Service Commencement Date of the Service** means the date on which the Service is available for use by the Customer.

**Service Level** means, where applicable, the reliability and performance standard that applies to the delivery of the Service by JBO Communications to the Customer, as set out in, or agreed in accordance with, a Service Level Agreement.

**Service Level Agreement** means, where applicable, an agreement signed by the parties in respect of the Service setting out the Service Levels and the remedies available to the Customer for a breach of the Service Levels.

**Telecommunications Act** means the Telecommunications Act 1997 (Cth).

**Term** means the period between the Service Commencement Date and the termination of the Service pursuant to clause 11 above.

We, us and our means and refers to JBO Communications.

You and your means and refers to the Customer.

