

Jet Interactive Pty Ltd (Jet) will supply you with telecommunications services ("Services") on the terms and conditions set out below. Words not defined in these terms and conditions have the same meaning as in the Telecommunications Act 1997.

## 1. OUR CONTRACT WITH YOU:

- 1.1 As a customer of Jet these terms and conditions form the basis of our contract with you.
- 1.2 Our contract with you also includes your application or order form which you complete and provide to us. We may accept and rely on electronic entry into a web page (electronic capture), email or a facsimile copy of the application or order form as if it was an original signed document. You will be bound by an electronically captured, emailed or a facsimile copy of the application or order form as if it was an original signed document.
- 1.3 Our contract with you also includes our currently applicable price list. The price list may change from time to time, but we will notify you of any changes when they happen. Copies of the price list are available from us, upon request.

## 2. SERVICE DESCRIPTION

- 2.1 Services will be supplied to you through the carriers or networks ("Carriers") that we nominate in writing from time to time. You agree that we –
  - (a) May change Carriers without reference to you and at any time; and
  - (b) Have your express authorisation to notify any relevant Carrier in respect of and to effect any such change.
- 2.2 We do not warrant that we will be able to supply Services and we are not liable for any failure to provide all or part of any of the Services, but, to the extent and to the standard that Carriers provide Services to us, those Services will be provided by us to you. When your connection is disrupted, we will do our best to reinstate our Services to you as soon as we can.
- 2.3 Unless otherwise stated in the schedule to this agreement, we reserve the exclusive right to provide you with all inbound call services from the date of this agreement.
- 2.4 When using the Services, you agree to –
  - (a) Comply with all statutes, regulations, by-laws or licence conditions of any government body; and
  - (b) Not breach any person's rights or otherwise cause us or a Carrier loss, liability or expense.
- 2.5 Our obligations to provide the Services ceases when we transfer your account to another supplier and the other supplier takes over full billing of those services.
- 2.6 You authorise Jet to be your agent for the delivery of Services that use caller line identification (CLI) data.

## 3. CHARGES AND PAYMENT

- 3.1 You agree during the term of this agreement:
  - (a) To be charged for the Services we provide to you, regardless of whether it is you who uses them, at our current prices from time to time;
  - (b) To pay us for all calls made to your inbound number services;
  - (c) To pay GST as a component part of your account (all prices on this website include GST).
  - (d) To pay accounts for all of those charges (including taxes) by the date specified in the account ("Due Date").
    - (e) Charges will appear on your account as Jet Interactive.
    - (f) Charging for numbers and services commences from the date they are supplied to you by Jet- not from the date that you start using them.
- 3.2 If you dispute in good faith an amount in the account, you must notify us in writing within fourteen days setting out reasons for the dispute and the amount in dispute. Notwithstanding any

dispute as to any amount of any charge, you must pay the whole amount of each account by the Due Date.

3.3 If you do not pay the account by the Due Date, then we may charge a \$35 ex GST late payment fee and/or interest at the rate of 1.5% per month or part thereof on the outstanding amount of the invoice and suspend all or part of your Services pending payment of outstanding amounts on the account. Nothing in this clause affects our rights to terminate this agreement under clause 8.

3.4 If you do not pay the account by the Due Date, we also reserve the right (at our discretion) to adjust the prices you pay for the Services.

3.5 If you direct us to transfer any of the Services to another supplier, you will pay to us on receipt of an account under our normal payment terms -

- (a) All of our accounts up until the time we stop providing the Services; and
- (b) All other proper charges that we become aware of after the date of transfer that relate to the Services we provided to you.

3.6 All accounts must be paid by Direct Debit to a bank account or credit card.

(a) All credit card transactions attract a fee of 1%.

(b) It is your responsibility to ensure that:

- i. Your nominated account can accept direct debits (your financial institution can confirm this);
- ii. And that on the drawing date there is sufficient cleared funds in the nominated account;
- iii. And that you advise us if the nominated account is transferred or closed.
- iv. If your drawing is returned or dishonoured by your financial institution a once off \$60 Dishonour Fee will be applied to your account. It is your responsibility to arrange alternative payment to Jet or an alternate account to debit.
- v. If your financial institution no longer accepts direct debits then it is the responsibility of the account holder to pay the account on the due date by EFT. A \$10 Manual Processing Fee will be charged for each EFT transaction.

3.7 Drawing arrangements

(a) The first drawing under this Direct Debit arrangement will occur 24<sup>th</sup> of each month.

(b) If any drawing falls due on a non-business day, it will be debited to your account on the next business day following the scheduled drawing date.

3.8 Cancellation of Services

(a) Requests to cancel services must be done in writing to Jet.

(b) 30 days notice must be given. If services are cancelled within the minimum term or contract period then Jet reserves the right to charge an amount equivalent to the total monthly charges by the number of months remaining.

## 4. AMENDMENTS TO TERMS AND CONDITIONS

Without limiting clause 3.1, we may vary, alter, replace or revoke any of these terms and conditions effective upon the expiry of 14 days written notice from us. We may interpret your ongoing use of the Services after that date as constituting your acceptance of the variation, alteration, replacement or revocation.

## 5. CREDIT CHECK

5.1 Prior to our accepting your application, you have provided to us all information relevant to our assessment of your credit rating. You have consented to the following:

(a) Our obtaining from a credit reporting agency a credit report containing personal information about you;

- (b) Our giving to and seeking from any credit provider named in a credit report or in your application, information in relation to your credit rating including without limitation any information about your credit worthiness, credit history or credit capacity that credit providers are allowed to give or receive from other credit providers under the Privacy Act 1988;
- (c) Our making independent enquiries of third parties concerning your financial standing and for this purpose you have authorised and permitted such third parties to supply such information regardless of any confidentiality or privilege which applies to the information sought; and
- (d) Our providing any information we obtain about you to the relevant Carrier.

## 6. TRANSFER OF SERVICES

6.1 When you transfer any services ("Transferred Services") from a Carrier, a telecommunications service provider or equipment supplier who supplies telecommunications services or equipment to you at the time of signing this agreement ("Current Supplier") to us, you authorise us to sign on your behalf and in your name any forms required by the Current Supplier to transfer the Transferred Services as we direct.

6.2 You agree to immediately pay to the Current Supplier any amounts owing for the Transferred Services up to the date of the transfer.

## 7. LIMIT ON LIABILITY

7.1 We do not exclude or limit – the application of any provision of any statute (including the Trade Practices Act 1974, the Privacy Act 1988 or the Telecommunications Act 1997) where to do so would contravene that statute or cause any part of this clause 7 to be void; or

(a) Direct losses and damages which arise only as a result of our gross negligence (which means where we commit an act or allow an omission to occur in reckless disregard of the consequences of the act or omission).

7.2 Except where clause 7.1 applies, we exclude all statutory liability, tortious liability (including but not limited to liability in negligence), conditions and warranties implied by custom, the general law or statute, liability for all direct, economic, consequential or indirect losses, expenses, damages and costs incurred by you, arising out of or relating to the Services, any failure to supply or delay in supplying the Services or out of or relating to this agreement.

7.3 Including, but not limited to, liability for gross negligence and except to the extent of clause 7.1(a), we are not responsible or liable for any indirect consequential or economic damages, including, without limitation, loss of income or profit or loss of actual potential business opportunities.

7.4 Our liability to you for any breach of any implied provision of this agreement (other than an implied warranty of title) is limited, at our option, to refunding the price of the goods or Services in respect of which the breach occurred, or to providing, replacing or repairing those goods or providing those Services again.

7.5 We are not liable to you for any delay in the connection or failure in the operation of the Services.

7.6 You acknowledge that any liability of any Carrier to you in relation to the Services is governed by the terms and conditions on which that Carrier from time to time supplies that service to its own retail customers.

## 8. TERM OF AGREEMENT

8.1 This agreement will commence on the date of its signing by us.

8.2 We may immediately terminate this agreement by written notice at any time if, without our prior written consent: you breach any term or condition of this agreement; a receiver or receiver and manager is appointed over any of your property or assets; a liquidator or provisional liquidator is appointed to you; you become bankrupt; you enter into any arrangements with your

creditors; you assign or otherwise deal with your rights under this agreement; you cease to carry on business; or there is a material change in your direct or indirect ownership or control.

8.3 We may also immediately terminate this agreement at any time by written notice if the Carriers cease to provide necessary services to us.

8.4 Minimum Term. All services have a minimum term of three months from the date of order.

8.5 Contract Term is where a service, or services have been contracted for an extended period beyond the Minimum Term.

8.6 Australian 13 numbers are subject to automatic annual renewal. The annual renewal date is March 28.

8.7 If we terminate this agreement in accordance with this clause and a Carrier arranges to supply you services other than through us, you acknowledge that –

(a) The Carrier may not be able to make those arrangements immediately; and

(b) Once the Carrier has made arrangements, the services acquired by you from the Carrier will be acquired on the Carrier's then current tariffs and terms and conditions and the Carrier will bill you accordingly.

## 9. INFORMATION

9.1 Without limiting clause 5.1, you agree to provide us with any information we request in connection with our providing the Services to you under this agreement.

9.2 You authorise and consent to the following:

(a) Our conducting a physical audit of the Services and any equipment supplied in respect of the Services should we consider it necessary;

(b) our exchanging with Carriers all information about you and the Services provided to you in our possession or control including, but not limited to, your name, billing address, street address, relevant telephone numbers, any information obtained by us for the purpose of your application and this agreement;

(c) the Carrier exchanging with us any information in the Carrier's possession or under its control in relation to the Services including, without limitation, all your records and, in particular, exchange line details, account information, call charge records and call event records; and

(d) Ours and the Carrier's use of the information referred to in paragraphs (b) and (c) of this clause.

## 10. CONFIDENTIALITY

10.1 You will keep confidential all information supplied by us or the Carriers and we will keep confidential all information supplied by you, except as provided by clauses 5 and 9.

10.2 Call logs, Activity Reports, Ad Source and other data resulting from the provision of the Services:

(a) Will not be distributed or made public by Jet, other than in a fashion described in clause 10.2 (b);

(b) May be used for Jet's own internal research and record keeping purposes and whilst respecting the confidentiality of such reports or data, Jet may extrapolate and use such general information.

## 11. ASSIGNMENT

Your rights under this agreement are personal. You must not assign or attempt to assign any right or obligation under this agreement without our written consent. We may assign all or any of our rights and obligations under this agreement at any time by notifying you in writing.

## 12. WARRANTY OF AUTHORITY

Any persons signing this agreement on your behalf warrant that they have full power and authority to bind you in respect of this agreement.

## 13. MISCELLANEOUS

13.1 Any notice, demand, consent or other communication required to be given to either party must be delivered personally or sent by prepaid mail or by facsimile to the address of the other as last notified.

13.2 Clauses 2.5, 3.5, 5, 7, 10, 12, 13.4, 13.5 and 14 shall survive the expiration or termination of this agreement.

13.3 This agreement shall be governed by and construed in accordance with the law of Victoria and the parties hereby submit to the non-exclusive jurisdiction of the courts of that State. This agreement contains yours and our entire understanding to the exclusion of any and all prior or collateral agreement or understanding relating to the Services, whether oral or written. If any part of this agreement is found to be invalid or of no force or effect, this agreement shall be construed as though such part had not been inserted and the remainder of this agreement shall retain its full force and effect.

13.4 If you cancel your services with Jet, or move them to another provider, it is your responsibility to remove all Jet supplied code from your web site(s). Jet takes no responsibility for the code at this point or its performance or possible effect(s) on your website once services with Jet have been terminated.

## 14. FORCE MAJEURE

14.1 We are not liable for:

- (a) Any delay in installing any Service,
- (b) Any delay in correcting any fault in any Service,
- (c) Failure or incorrect operation of any Service, or
- (d) Any other delay or default in performance under this Agreement, if it is caused by any event reasonably beyond our control, including but not limited to war, accident, act of God, industrial action, embargo, delay or failure or default by any other Supplier.

## 15. OWNERSHIP OF NUMBERS AND PORTING OF SERVICES AWAY FROM JET

(a) Unless specified in your contract with Jet the 13, 1300 & 1800 numbers associating your Services with Jet are your property.

(b) You must not port any Phone Numbers supplied by Jet to an alternative service provider or Carrier or Network without the prior written consent of Jet. Each Phone Numbers ported away from JET attracts a \$150 porting fee.

## 16. CALL RECORDING and CALL ID

In using the Call Recording Service or any other Services where Recordings are, at your option, made by us, you expressly agree and acknowledge that:

(a) you authorise JET INTERACTIVE to make Incoming Call Recordings and collect Personal Information on your behalf. Without limiting the generality of the aforesaid, you specifically authorise JET INTERACTIVE to act as your agent in respect of all Caller Line Identification data and other personal information collected by JET INTERACTIVE;

(b) you either:

(i) authorise JET INTERACTIVE to play a voice message advising the Calling Party that the Incoming Call is being recorded prior to the said Incoming Call being connected to you or your employee, contractor, officer, agent, authorised representative or other third party answering the

Incoming Call; OR

(ii) make the necessary arrangements to ensure that the Calling Party is provided with the necessary warning about the presence of any Recordings made of an Incoming Call in accordance with the law;

(c) all Incoming Call Recordings are stored by JET INTERACTIVE for a period of three (3) months, commencing the date that a Recording is made. Following the expiry of the storage period, you will not be able to retrieve a copy of the Recording and you hereby acknowledge and agree that JET INTERACTIVE shall have no liability whatsoever for any failure to retain or store such copies of Recordings beyond the said storage period;

(d) all Personal Information collected or compiled by JET INTERACTIVE for, and supplied to, you must be used by you and your employee, contractor, officer, agent, authorised representative or other third party in compliance with the law, including without limitation, any provisions under the Telecommunications Act 1997 (Cth), Privacy Act 1988 (Cth), the Telecommunications (Interception) Act 1979 (Cth), and all regulations or guidelines promulgated thereunder;

(e) you must notify your employee, contractor, officer, agent, authorised representative or other third party that their telephone conversation with a Calling Party in respect of an Incoming Call is being recorded by JET INTERACTIVE through or in connection with the Services; and

(f) JET INTERACTIVE shall have no liability whatsoever in respect of any use made by you, your employee, contractor, officer, agent, authorised representative or other third party, of the Recordings and its contents, and/or of any Personal Information.