



## ClubTelco Standard Customer Terms

We, **ClubTelco Pty Ltd** ("**ClubTelco**") will provide you with such telecommunication services as we may agree to provide you from time to time using our facilities and services, those of our related companies and those of other Suppliers. **To understand your rights and obligations under our Customer Terms you must read the following General Terms, the terms of your Plan and any Offers that you choose to take up. You can obtain a copy of these terms or of any of our Plans and Offers by visiting [www.clubtelco.com](http://www.clubtelco.com) or by calling 13 TELCO (13 8352).**

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## 1. Definitions

1.1 In the General Terms of our Customer Terms, the following words and abbreviations have the following meanings:

**Application** means a ClubTelco application for Services whereby you have either: signed a form; given a verbal voice recording; registered online; or subscribed to our Services by any other means that we may provide to you for that purpose, from time to time.

**Australian Communications Authority (ACMA)** means the Federal Government regulatory authority responsible for the regulation of broadcasting, radiocommunications, telecommunications and online content.

**Billing Period** means the interval at which we propose to render Invoices, normally monthly, but we may vary it.

**Business Day** means a day other than a Saturday or a Sunday or a public holiday listed throughout Australia.

**Business Customer** means any Customer who we reasonably believe carries on a business, and includes:

- (a) an individual whose White Pages entry incorporates a business reference; or
- (b) a company incorporated under the *Corporations Act 2001* (Cth) or any other body corporate; partnership or legal entity which has an ACN or an ARBN/ABN to which we agree to supply Services; and
- (c) an association or club (whether incorporated or unincorporated) that is not a Non-Profit Organisation or Charitable Organisation.

**Charge** means an amount payable to us for the Services.

**Charitable Organisation or charity** means an organisation that is endorsed by the Commissioner of Taxation as a deductible gift recipient under Subdivision 30-BA by reason of being a public benevolent institution under item 4.1.1 of the table in section 30-45 of the *Income Tax Assessment Act 1997*.

**Credit Reporting Agency** has the meaning given to it in the *Privacy Act 1988*.

**Customer** means a Person whose Application for a Service (including for supply of that service to another Person) is accepted by us and who is bound by our Customer Terms.

**Customer Service Guarantee** means the *Telecommunications (Customer Service Guarantee) Standard 2000 (No. 2)* as amended by the Australian Communications and Media Authority (**ACMA**) from time to time, a copy of which is available from ACMA's website at [www.acma.gov.au](http://www.acma.gov.au).

**Customer Terms** means this standard form of agreement, which includes these General Terms and the Terms of your Plan and any Offers that you have subscribed to.

**Direct Debit** means the regular payments that you authorise to be withdrawn directly from your bank account.

**Equipment** means any hardware, software or other infrastructure used that is necessary for the use of a Service.

**Facility** has the same meaning as under the *Telecommunications Act 1997* and includes any line, tower, mast, antenna, tunnel, hole, pit or pole used in connection with a Service.

**Government Customer** includes all federal, state, territory and local government departments, authorities, agencies and businesses.

**GST** means the goods and services tax introduced by the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

**Intellectual Property** means all rights conferred under statute, common law and equity in and in relation to trade marks, trade names, logos and get up, inventions, patents, designs, copyright, circuit layouts, confidential information, know-how and trade secrets and all rights and interests in them or licences to use any of them.

**Invoice** means an account rendered by us for Charges.

**Network** means the "telecommunications network" as defined under the *Telecommunications Act 1997* used by **ClubTelco** to provide the Services.

**Non-Profit Organisation** means an organisation that does not operate for profit and includes:

- (a) government and non-government schools, pre-schools, kindergartens and child-care centres; and
- (b) sporting, social, cultural and community clubs and groups that are operated substantially by their members, players or their parents, but does not otherwise include Government departments, business or agencies.

**Notice** in relation to us providing you with the relevant information means:

- (a) delivering the information to you in person;
- (b) sending the information by pre-paid post to the address listed in our records for you;
- (c) transmitting the information to your email address if you:
  - i. have an email address which has been allocated to you by **ClubTelco**;
  - or
  - ii. you have an email address which has been allocated to you by another service provider but you have given us your consent to send information to that address;
- (d) including the information on, in or with your invoice (for example a newsletter), including an invoice made available to you online via our website, provided you have consented to receiving the invoice in that format; or
- (e) by making the information available to you by means such as through our website, at a retail outlet, via a recorded message, by text message or in writing.

**Notice** in relation to you providing us with notice means:

- (a) delivering the information to us in person; or
- (b) sending the information by post or email to an address stated by us; or
- (c) telephoning us with the information, provided we give our consent that this constitutes notice.

**Offer** means a special service offering that we may make available from time to time to eligible Customers.

**Override Code** means the **ClubTelco** "1434" access number, which enables Persons not yet preselected to **ClubTelco**, to access **ClubTelco**'s Services.

**Person** means, as the context requires a natural person, body corporate, unincorporated body or other legal entity and includes a reference to that person's executors, successors, attorneys and assignees.

**Plan** means the specific plan that you subscribe to for the use of a Service.

**Premises** means any land, building, structure, vehicle or vessel, whether owned, leased or occupied by you, containing Equipment or a Service, or to which a Service is supplied.

**Privacy Policy** means our privacy policy, which sets out how we collect and use your personal information. You can access our privacy policy by visiting our website [www.clubtelco.com](http://www.clubtelco.com) or you can receive a hard copy by calling us on 13

TELCO (13 8352).

**Related Body Corporate** has the meaning given by section 50 of the *Corporations Act 2001* (Cth).

**Residential Customer** means any Customer who is not a Business Customer or Government Customer or is a Consumer as defined in the *Australian Communications Industry Forum C620:2005 Industry Code- Consumer Contracts*.

**Service or Services** means any telecommunication service applied for by a Customer via an Application and includes any goods or Equipment provided in connection with a Service.

**Service Entitlements** include but are not limited to, for example, the included minutes with your mobile service Plan or the download entitlement included with your internet Plan or any other service credits included as part of your Service from time to time.

**Supplier** means a telecommunications carrier, a telecommunications service provider, software or Equipment supplier other than **ClubTelco** or one of its Related Bodies Corporate.

**Tax Invoice** means the definition given in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

**Telecommunications Numbering Plan** means the *Telecommunications Numbering Plan 1997*, which established a framework for the numbering of carriage services in Australia, for further information please visit the Australian Communications and Media Authority's website at [www.acma.gov.au](http://www.acma.gov.au).

**We, we, Us, us, Our, our** means **ClubTelco**.

**You, you, Your, your** means our Customer.

## 2. **Composition of Our Customer Terms**

2.1 Our Customer Terms are made up of:

- a. these General Terms - **which apply to all our Services and to all our Customers;**
- b. postpaid voice services terms;
- c. postpaid mobile services terms;
- d. postpaid internet services terms;
- e. postpaid broadband voice (VoIP) services terms;
- f. special offers terms; and
- g. our Schedule of Charges.

Your Services are subject to the terms of your Plan and the terms of any Offers you choose to take up. The terms of your Plan and the terms of any Offers you choose to take up are deemed to be part of our Customer Terms for the purpose of interpreting our Customer Terms.

2.2 Copies of the terms for each Plan listed above are available at [www.clubtelco.com](http://www.clubtelco.com).

2.3 If a term in our Customer Terms is uncertain, then if it is reasonable in all the circumstances to do so, the interpretation that is most favourable to you, will apply.

2.4 You enter into these Customer Terms when you:

- a. apply for a Service;
- b. satisfy any requirements for the supply of that Service; and
- c. we accept your Application and accept you as a Customer of **ClubTelco**.

To be the legal lessee (account holder) of the telephone line to be used to connect the Service, you must be over 18 years of age, or, if not over 18, have obtained the consent of a parent, teacher or other responsible adult prior to applying for or accessing the Service. **ClubTelco** has the right to reject any Application from a Person under the age of 18 years of age if there is insufficient consent supplied.

- 2.5 The Service will be supplied on the terms of:
- a. the applicable Offer (which in the case of inconsistency ranks highest);
  - b. the Plan (which is next in the case of inconsistency); then
  - c. these General Terms (which rank last in the event of inconsistency).

2.6 The agreement between you and us will be governed by the law of the State or Territory in which you state to be your State or Territory of residence in the Application.

### **3. How can we change anything in our Customer Terms**

3.1 From time to time, we may need to change the terms of our Customer Terms. For example, if one of our Suppliers changes the terms on which they supply services to us, or changes the functionality or nature of a Service, or its underlying technology, we may need to change the terms on which we supply the Services to you. Consequently we do not offer to provide you with ongoing supply of a Service on the same terms and conditions as exist when we first commenced providing that Service to you. You acknowledge and agree that from time to time the nature of your Services and the terms on which we supply those Services may change. If we need to change our Customer Terms then we will give you Notice as set out in clause 3.2 below. You hereby consent and agree to us providing you with any such Notice in accordance with these terms and conditions.

3.2 **We will give you Notice of any changes to our Customer Terms at least 30 days prior to the date on which those changes are to take effect. If the changes we propose to make to our Customer Terms will cause detriment to you, for example, the new changes cost you extra money or may unreasonably change the Services we initially offered you, then you may immediately terminate the affected Service or Services we provide you under these Customer Terms without incurring an early termination fee or penalty, by giving us Notice to that effect within 42 days of you receiving Notice from us of the changes. You agree that if you do not give us Notice within the 42 day period, you are deemed to have accepted the changes to our Customer Terms from their date of effect and the amended Customer Terms will then govern the relationship between you and us from that date.**

3.3 For the avoidance of doubt, our right to change the terms of these Customer Terms excludes any right to remove or change clause 3.2 without your consent (unless we are required by law to amend that clause or we amend that clause to your benefit, for example, to increase the period of Notice or your rights of termination under clause 3.2).

### **4. Applying to be a ClubTelco Customer**

4.1 When you apply for a Service with us, we are not obliged to accept your Application. We decide whether to supply our Services to you based on the following:

- a. the terms for the Service;
- b. whether you are eligible for the Service;
- c. whether the Service is available to you; and
- d. whether you meet our credit requirements.

### **5. Connecting your Service and the Customer Service Guarantee**

5.1 Depending on the type of connection (or reconnection) and the type of work required to connect the basic telephone Service, we will apply one of the connection Charges set out in our Schedule of Charges. The criterion for charging is based on the work that we determine is required to connect your basic telephone Service. This will depend on whether a basic telephone Service has previously been connected at your Premises, whether a technician is required to attend the Premises, and whether any cabling work has to be undertaken by us, our agents or

contractors.

5.2 After we accept your Application for a basic telephone Service, we will endeavour to connect it on the date you request. However, that may not always be possible. In some circumstances we may not be able to make firm arrangements immediately or we may have to change a previous firm arrangement. We will tell you beforehand if we cannot connect you on the requested date. Where you request a basic telephone Service after 5pm, we treat this as if you had requested it the following working day. If there has been a previous working basic telephone Service at your Premises that has been cancelled and that we can automatically reconnect without having to visit your Premises, the local exchange or any place in between, we aim to connect the basic telephone Service within two Business Days after you request, or on a later date that you request or agree to. We will advise you if we know we can automatically connect your Service without having to visit your Premises, the local exchange or any place in between.

5.3 The Customer Service Guarantee ("**CSG**") requires us to observe certain time frames in connecting particular standard fixed line telephone services (like home telephone services). If we do not connect these Services within the CSG timeframes, you may be entitled to receive financial compensation. If you believe that you are entitled to compensation call us on 13 TELCO (13 8352) and we will consider your claim in a reasonable time. We will connect Services not covered by the CSG within a reasonable time. A summary of our obligations under the CSG is available at [www.clubtelco.com](http://www.clubtelco.com) or may be obtained by calling us on 13 TELCO (13 8352). You may also find out more about the CSG by visiting the ACMA website at [www.acma.gov.au](http://www.acma.gov.au).

## **6. Telephone Numbers**

The Telecommunications Numbering Plan sets out rules for issuing, transferring and changing telephone numbers. We do not confer any ownership or legal interest or goodwill in any telephone number issued to you. You are entitled to continue to use any telephone number we issue to you, except in circumstances where the Telecommunications Number Plan allows us to recover the number from you.

## **7. Transferring your telephone number to another user**

If we issue you a telephone number, then you need to obtain our consent if you wish to transfer the telephone number to another Person for use by that Person instead of you.

## **8. Transfer of your Service to another Person**

You may transfer the legal responsibility for your Service to another Person provided that you give us 14 days Notice and the Person that you wish to transfer your Service to meets the criteria for becoming a **ClubTelco** Customer as set out in clause 4 of these Customer Terms.

## **9. Transfer of your Service to us from another Supplier**

By transferring to **ClubTelco**, you:

- a. authorise us to sign on your behalf and in your name, forms of authority to your current Supplier to transfer your accounts into our name;
- b. authorise your current Supplier of telecommunications services to transfer to us your local, national, international, calls to Australian mobiles, internet or mobile services relating to the telephone numbers transferred to us (as applicable per the Application);
- c. will remain responsible for all amounts owing to your current Supplier of telecommunications services for any services they supply or have supplied to you;
- d. understand that you may surrender all incentives and benefits with your current Supplier including discount plans and charity concessions; and



- e. understand that when churning, your current network access or restrictions will still apply until outstanding debts have been finalised with your previous carrier and any restrictions are removed.

**10. Transfer of your Service from us to another Supplier**

If at any time you transfer your Service with us to another Supplier, we may charge fees in relation to that transfer and you are liable to pay us any amounts that you owe us, including all call Charges and access fees by the due date as shown on the corresponding invoice. In addition, you are still responsible for meeting your obligations under our Customer Terms relating to liability and indemnity. We may issue you with an additional invoice for any outstanding Charges due to us after you have transferred the Service from us to another Supplier, and you will be obliged to pay that invoice.

**11. Premium Services (Including 190 and 1900 Adult Services)**

An Application for Access to InfoCall® 190 Adult Services & Premium Services is available for all Customers to complete on signup with **ClubTelco**. This application is to be completed and returned to **ClubTelco** to alter any access that is currently available on a service prior to churning to **ClubTelco**. Restricted access to premium services such as 1900 and 190 numbers may be applied to accounts. Access to these services will only be available on completion of the application to new connections. This form will be required to provide premium services if you have not established a successful payment record with **ClubTelco**. A security deposit (bond) of \$250 may be payable and held for a minimum of 6 months. This payment may be applied against your fees and charges, or refunded on cancellation of your service with **ClubTelco** if there are no outstanding monies due on the account.

In accordance with Part 9A (Telephone Sex Services) of the *Telecommunications (Consumer Protection and Service Standards) Act 1999* and the *Telecommunications Service Provider (Premium Service) Determinations 2004* (no. 1 and 2) Clause 3.1, we are also required to inform you of the financial risks associated with Premium Service numbers and 190 and 1900 Adult Services. This document is available at [www.clubtelco.com.au](http://www.clubtelco.com.au) or by contacting Customer Service on 13 TELCO (13 8352).

**12. Faults**

12.1 We aim, but do not promise, to provide you with continuous fault-free Services. Faults experienced in relation to any of the Services should be reported by contacting our Customer service centre on 13 TELCO (13 83526) during our service hours which are listed on our website at [www.clubtelco.com](http://www.clubtelco.com). We will take reasonable steps to ensure that the fault is attended to expeditiously. However, we may rely on the services of other Supplier's to deliver these services on our behalf.

The timeframe in which your fault will be attended to depends on when it is reported, your location, any physical, security or access impediments and the nature of the fault. Where your Service is faulty, you may (if available) divert your Service to another number.

We repair faults in the Service (up to the boundary of the Network) between 8am and 5pm on Business Days. If you ask us to repair a faulty basic telephone Service outside those hours, and we agree, we may charge you our fee-for-service Charges. We aim generally to repair a basic telephone Service within the following timeframes after you tell us of the fault:

Area	Description	Time Frame
Urban Area	Areas with population greater than 10,000	One (1) Business

		Day
Major Rural	Areas with population between 2,500 and 10,000	Two (2) Business Days
Minor Rural	Areas with population between 200 and 2,500 but not within Telstra's Extended Charging Zones	Two (2) Business Days
Remote	Areas with population less than 2,000 people or areas included in a Telstra Extended Charging Zone	Three (3) Business days

These do not apply to all Customers or Services. Where two timeframes apply, we aim to comply with the shorter timeframe. Where we give you an estimate of the number of hours that may be needed to repair a basic telephone Service, the estimate only includes hours between 8am and 5pm on a Business Day. Under the CSG you may have certain rights and obligations in respect of the timeframes for the repair of faults. Please refer to clause 5.3 in relation to these rights.

12.2 We may from time to time suspend any of the Services during any technical failure, modification or maintenance but in that event we will give you Notice, where reasonably practicable to do so, and try to resume the Services as soon as reasonably practicable.

### **13. Maintenance and repairs**

13.1 We will provide maintenance and support for all of our Services for as long as they are supplied to you.

13.2 We offer customer support for our Services. We do offer support for the VOIP and ADSL hardware that we sell but we do not offer support for any mobile phone handsets.

13.3 You are responsible for maintaining and repairing any Equipment that is at your Premises and that does not belong to us and you must carry out any maintenance or repairs on that Equipment that we reasonably ask you to do from time to time.

13.4 If your Equipment causes a fault in your Service, then we may charge you a call-out fee and/or any third party Supplier fees involved for rectifying the fault. This clause does not apply to Equipment which we have sold to you and which was faulty or defective at the time of sale or during any warranty period.

### **14. Business Customers**

14.1 At times, we may need your consent to do certain things relating to the Services we provide to you. For example, to carry out maintenance and repairs, to vary the nature of your Service or to add a Service to your account. As long as we act in good faith, we will rely on the consent given by any of your employees who tell us they have the authority to give your consent.

14.2 If you are a Business Customer, Government Customer, Charitable Organisation or Non-Profit Organisation and have obtained our written consent, then you may appoint a third party to act on your behalf in relation to our Customer Terms and your Services. We will not withhold our consent unreasonably but we may withdraw our consent on reasonable grounds, relating to the third party's conduct. We will give you a reasonable period of notice before we do so.

### **15. Accessing your Premises**

15.1 When it is required for work to be completed at your Premises, an appointment will be made for a contractor to carry out the work. All reasonable steps will be taken to ensure that the appointment is kept, however because **ClubTelco** relies on its other Suppliers to deliver these services on our behalf, this is not always possible.



- 15.2 We may need to gain access to your Premises from time to time. You agree to provide us with safe access to your Premises so we can:
- a. install Equipment for a Service you have asked for;
  - b. inspect, test, maintain, repair or replace Equipment; and
  - c. recover our Equipment after your Service with us is terminated.

**16. Owner's permission**

If you do not own your Premises, you agree to seek the owner's permission to provide us with safe access to your Premises and you promise us that you have obtained that permission. You indemnify us against (and must pay us for) any claim the owner makes against us relating to our entering your Premises in accordance with clause 15.2 without the owner's permission.

**17. Use of Credit Bureaus**

You authorise us to exchange information about you with a Credit Reporting Agency in accordance with the provisions of the *Privacy Act 1988* in order to:

- a. obtain a consumer credit report about you; and/or
- b. default list any payments which are overdue by more than 60 days;
- c. default list any dishonoured cheques where the amount of the cheque is over \$100 and the cheque is presented two or more times; and/or
- d. allow the Credit Reporting Agency to create or maintain a credit file about you.

**18. Credit Risk and Security**

18.1 If:

- a. your Service has an unusually high volume or spend when compared to previous activity for that Service or when compared to other Customers using the same Service;
- b. you fail to respond to our Notices about an unusually high volume or spend in relation to your Service; or
- c. you fail to pay Charges on your current invoice by the due date and your account history shows a series of late payments, dishonoured payments or a failure to pay any outstanding Charges we have previously billed (excluding those Charges the correctness of which you have specifically and genuinely disputed in accordance with clause 20),

we will have reasonable grounds to suspect you are a credit risk.

18.2 If we believe you are a credit risk, we may require you to provide us with some form of security, for example, a security deposit, or ask you to pay some or all of the Charges for your Service in advance or set a credit limit for the provision of Services to you and we may increase the frequency of the invoices we send to you. Our acceptance of any form of security or advance payment will not affect any other terms of our Customer Terms. You authorise us to deduct from that bond any amounts remaining owing to us 30 days after the date of an invoice. If you terminate all your Services, we will return the security deposit or advance payment to you, less any outstanding Charges, including any unbilled Charges.

**18.3 If you do not provide the relevant security by the date requested, we may refuse to provide you with the Service or may terminate a Service that we have been supplying to you. In this event, we will provide Notice to you prior to termination. These rights are in addition to our rights to suspend or terminate your Service under clause 31.**

**19. Charges**

19.1 Our Charges are set out in our Schedule of Charges. The Charges you must pay us for the Services will depend on the options and features of the Plan that has been selected. Charges may vary according to the Plan that you choose and may vary

depending on any special conditions that apply to each Plan; the time of the day (including peak and off-peak); whether you are a Residential Customer, Business Customer or Government Customer the origin and destination of the call; the volume of the calls made during the period; and any applicable rebates or discounts that might apply to a particular call or particular Customer. All Charges are inclusive of GST unless otherwise stated. These Charges must be paid by the due date set out on the invoice. Sometimes you may have to pay particular Charges in advance in accordance with our Plans or our Offers. For example, for fixed line Services, we may invoice you the line rental fee one month in advance.

19.2 The account holder is liable for all calls made using the 1434 Override Code (or other Override Codes as may be advised) and other Services if pre-selection is authorised, together with any collection costs if applicable. If you use an Override Code to access services offered by another Supplier, you will be billed by that Supplier for those services. If you have pre-selected **ClubTelco** for your long distance Services only, you will be billed by your current service provider for your service, line rental, Equipment and local calls.

19.3 If another Supplier charges us in connection with the provision of Services to you, provided we comply with the other terms of these Customer Terms, we may pass on those Charges to you. For example, if our Supplier increases the amount it charges us for the line rental fee, then we may charge the increased amount to you provided that we have given Notice to you and afforded you a right to terminate the Services in accordance with clause 3.2 of these Customer Terms. However, as set out in clause 19.4 below, your right to terminate under clause 3.2 does not apply to an increase in Charges for international calls, international roaming or third party content Services.

19.4 **Clause 19.3 does not apply to international calls, international roaming, third party content Services and any arrangements under which these Services are supplied to ClubTelco by third parties. The Charges for these Services can vary at any time and you will not be entitled to terminate these Customer Terms under clause 3.2 due to any changes to these Charges. The Charges for international calls and international roaming are set out at [www.clubtelco.com](http://www.clubtelco.com) or can be obtained from us by calling 13 TELCO (13 8352).**

19.5 We reserve the right to suspend provision of Services to you, where Charges owing to us remain outstanding after 30 days unless we have received written notice from you of a bona fide dispute of those Charges in accordance with clause 20.

## **20. Disputed amounts**

20.1 If you dispute any Charges stated on your Invoice, you must notify us of the disputed amount and the reasons why you dispute that amount prior to the relevant Invoice's due date. This does not affect any of your legal rights concerning incorrect Charges. You will not have to pay any amount which you have genuinely disputed in accordance with this clause unless, and until, the disputed amount is resolved in favour of **ClubTelco**.

## **21. Invoices**

21.1 We will issue Invoices to you monthly for the Services in accordance with our current Charges as notified to you from time to time and/or as set out in our Schedule of Charges. If we choose to make any changes to the frequency of your Invoices, we will give you 30 days Notice. An Invoice will generally include most of our Charges relating to a Billing Period but may also include Charges from previous Billing Periods incurred not more than 190 days before the current Billing Period. We will generally invoice you in advance for periodic Charges and non-usage Charges (for example, line rental) and in arrears for usage Charges, although this may vary in certain cases.

- 21.2 You must pay **ClubTelco** the Charges specified on the invoice by the due date shown on the invoice. Calling history is available at [www.clubtelco.com](http://www.clubtelco.com).
- 21.3 In some circumstances it may be a condition of our service that you receive your Invoices online. If you are unable to receive your Invoices online, then we may Charge you a fee for sending you a paper Invoice. You can ask us for a paper copy of a past Invoice we have issued to you and we will send you a copy, but if we do, we may charge you a fee for printing and sending you a past copy of an Invoice. Any such fees will be set out in our Schedule of Charges which is available on our website at [www.clubtelco.com](http://www.clubtelco.com). If you have agreed to receive your Invoices online at a stated email address, you consent to receive Notices from us at that same email address, including any messages or Notices we send you regarding your credit with us.
- 21.4 Payment options include the following: credit card, Australia Post, BPay, direct debit from a nominated bank or credit card, Bill Express or cheque.
- 21.5 If we incur charges from your financial services provider because your cheque, credit card payment or direct debit is not honoured, we may charge you for the costs of processing the rejected transaction.
- 21.6 You may request a copy of an earlier Invoice from us and **ClubTelco** may charge the fee listed in our Schedule of Charges for this service.

## **22. Direct Debit Payment and Other Processing Fees**

**ClubTelco** encourages Customers to pay their Invoices by Direct Debit from a bank account. All Invoices that are not paid by bank account Direct Debit will incur a fee set out in our Schedule of Charges which is available on our website at [www.clubtelco.com](http://www.clubtelco.com).

If you choose to pay your Invoices using Direct Debit, we may without further notice to you, debit the amount due from your nominated account on or prior to the Invoice's due date unless you have notified us of a genuinely disputed amount on that Invoice and the reasons why you dispute that amount before the Invoice's due date. If an account reaches the pre-determined credit limit prior to the selected Business Day, then the account will be debited that amount on the next Business Day. If a Direct Debit is rejected by your financial services provider, then we may charge you a fee set out in our Schedule of Charges which is available on our website at [www.clubtelco.com](http://www.clubtelco.com) for the costs of processing the rejected transaction.

## **23. Overdue payments**

- 23.1 We reserve the right to recover any overdue amounts from you through various means, including but not limited to:
- a. an automated telephone reminder service;
  - b. debt selling;
  - c. listing defaults with a Credit Reporting Agency;
  - d. using mercantile agents; and
  - e. commencing legal action.
- 23.2 We may engage the services of a third party Supplier for the purposes of collecting overdue amounts and they may also use any of these means to recover any overdue amounts. We are entitled to recover reasonable costs incurred in recovering any overdue amounts in addition to the overdue amounts. We will notify you prior to taking any debt recovery actions that will result in further Charges to you.
- 23.3 We will lodge a default with a credit bureau where payment has not been received within 61 days of an Invoice's due date.
- 23.4 Where debt recovery action is taken, we reserve the right to charge you the cost of recovery, including late payment fees, Plan cancellation fees and mercantile agent

fees.

## **24. Adjustments**

- 24.1 We may round Charges payable by you up or down to the nearest whole cent (0.5 cents is rounded up). If you pay an invoice by cash, then we may round the amount payable by you to the nearest multiple of 5 cents.
- 24.2 We may pay you any amounts we owe you by deducting those amounts from any outstanding amounts you may owe us. If the Services provided under these Customer Terms are terminated, we will return any security deposit or advance payment to you less any Charges payable by you upon final settlement of your account.
- 24.3 If we require you to pay any Charges in advance (for example, the line rental fee) and the Charges are varied or the Service is terminated, then we will refund you any overpayment and you will pay us for any underpayment.

## **25. Credit Balances and Service Entitlements**

- 25.1 If your Services are terminated for any reason, we will notify you of any amount owed to you by us by stating that amount as a credit on your final invoice. You may, by giving us Notice, claim a refund for the credited amount or elect to apply the credited amount to another Service we may supply to you. If you wish to do either of these things, please notify us within 90 days of receiving your final invoice from us. In the event that you do not claim these monies within 90 days of being notified, we will retain the money and you agree that you will have no further claim in relation to those monies.
- 25.2 If you have any Service Entitlements you can only use those Service Entitlements towards usage of the Services to which they relate and up until your account is terminated with us. No amount will be credited to you in lieu of any Service Entitlements. For example, if you have a Service Entitlement of \$5 for your mobile phone account, you can use this towards making \$5 worth of mobile phone calls while you are a Customer of **ClubTelco**. We will not refund any Service Entitlements if your Service is terminated.

## **26. GST**

- 26.1 **ClubTelco** will on-bill to you any GST that applies or is introduced to any supply we make to you under our Customer Terms. The GST amount must be paid by you without deduction or set-off. We will issue you a Tax Invoice for any supply on which GST is payable. All prices quoted on the website are GST inclusive, unless otherwise stated. GST will be calculated on the total value of taxable Services supplied during the Billing Period (less any credits) and will be shown on the invoice as a separate Charge.

## **27. Your responsibilities**

- 27.1 You must co-operate with **ClubTelco**'s reasonable requests with regard to your Services.
- 27.2 You are responsible and liable to pay for any use of your Service, whether or not you have authorised it.
- 27.3 You are responsible to disconnect any fixed Service you have when you leave your Premises. If you do not disconnect your fixed Service, then you are responsible to pay for any use of that Service by later occupants or others. Any Person who uses your Service or allows someone else to use it after you have vacated your Premises may be jointly and individually liable with you for any Charges relating to that use.
- 27.4 If you move from your Premises or your contact or billing details change, you must tell us within 14 days.

- 27.5 You must not interfere with or make unsafe our Service and will be responsible to make sure that the operation of our Services is not interfered with or made unsafe by a third party who you authorise to use the Service or who is otherwise under your reasonable control. If your Service interferes (or threatens to interfere) with the Network, you will be required to do what we reasonably ask you to do.
- 27.6 It is your responsibility to arrange and pay for any electricity supply needed for a Service at your Premises. You understand that a Service may not work if the electricity supply is not maintained.
- 27.7 You must only connect Equipment in connection with our Services that complies with the relevant technical and interconnection standards and other relevant requirements of ACMA. For example, for our Mobile Services, you must use the Network approved handsets, a list of which can be obtained by calling us on 13 TELCO (13 8352). To find out about ACMA's standards, visit its website at [www.acma.gov.au](http://www.acma.gov.au). In addition, you must make any changes to your Equipment in connection with our Services that we reasonably ask, in order to avoid danger or interference that your Equipment may cause.
- 27.8 If your Service is terminated, you must return to us or to the relevant Supplier, any Equipment owned by us or that Supplier that you previously used in connection with our Service, or you must allow us to recover that Equipment from you. If you fail to return that Equipment to us or to the relevant Supplier or fail to enable us to gain access to your Premises to recover it, we will charge you for the replacement value of the Equipment, provided that we have given you reasonable Notice of your failure to return the Equipment or failure to enable us to gain access to your Premises.

## **28. Use for intended purpose**

- 28.1 Our Customer Terms and/or the terms and conditions attached to a particular Service, Plan or Offer may state that a Service, Plan or Offer is provided to you for an intended purpose and is subject to certain restrictions and conditions. For example, from time to time, to ensure that certain Offers relating to our Services are sustainable, those Offers may be subject to conditions which aim to ensure reasonable usage of the Services. You must only use the Service, Plan or Offer for the intended purpose for which, and subject to the restrictions and conditions on which, it is supplied to you by **ClubTelco**. You can obtain a copy of the terms and conditions of any of our Offers by visiting [www.clubtelco.com](http://www.clubtelco.com) or by calling 13 TELCO (13 8352).

## **29. Excessive and unusual use**

- 29.1 We do not promise to monitor your Service for excessive and unusual usage. However, if through our monitoring process, we notice that your Service is being used in an excessive and unusual way, we may temporarily suspend your Service to prevent you incurring unexpected Charges. We will use reasonable steps to contact you prior to the suspension of the Service. Excessive and unusual use may include but is not limited to the following examples:
- a. if you have a call that remains connected for an unusually long period of time;
  - b. where an unusually large volume of calls to premium-rate or international Services are being made from your Service; or
  - c. excessive use of data and messaging Services.
- 29.2 If we do suspend your Service in accordance with this clause 29, we may require an advance payment before your Service is restored and you are still liable to pay us any Charges incurred for any excessive or unusual usage.
- 29.3 **ClubTelco** is committed to supplying superior service to its Customers. For **ClubTelco** to meet this commitment, its users must use the service fairly. If a Customer is identified to be making excessive use of our service, and it is deemed to be a serious burden on the Network, **ClubTelco** has the right to initially warn



the Customer of any misuse via phone, letter or email. If the Customer does not rectify this matter in the given time, **ClubTelco** then reserves the right to limit the Customer's connection speed or suspend their Service without further notification to the Customer. **ClubTelco** also reserves the right to terminate a Customer's contract if the above occurs three times or more, and the Customer will be liable for early termination fees if this contract is breached.

29.4 In addition, **ClubTelco** reserves the right to suspend or terminate, with or without notice, any Customer's account, which in **ClubTelco's** opinion, directly or indirectly is involved in activities which are detrimental to **ClubTelco's** service, or jeopardise the use of **ClubTelco's** service or its performance for other Customers. In reference to internet, this includes, but is not limited to, "spamming" email, or forwarding spammed email to other internet users' email addresses, commercial advertising, informational announcements, charity requests, petitions for signatures, chain letters and political or religious messages, attempted unauthorised access to other internet servers and systems, misrepresentation and abusive or offensive behaviour in newsgroups and other online facilities.

29.5 **ClubTelco** does not under any circumstances permit the resale to any other party of **ClubTelco's** service connections and/or bandwidth. Any Customer found doing this would be charged for all of that Customer's usage, and any other party's usage to which they have sold or divulged material to enable access to **ClubTelco's** system at three times the current rate applicable. We may terminate the Customer's account without notice and without refunding any subscriptions paid but unused.

### **30. Breaching laws or regulations**

30.1 You must not use any of our Services to breach any laws or regulations or allow anybody else to do the same. If you use, or you allow someone else to use, our Service to breach any laws or regulations, then you must indemnify us for any loss or expense that we suffer.

30.2 In particular, you must not use the Services or permit any other Person to use the Services to:

- a. menace or harass or incite hatred against any Person; or
- b. intentionally cause damage or injury to any Person or property; or
- c. expose us or any of our Suppliers to the risk of any legal or administrative action including prosecution under any law, or do anything which could bring us or any of our Suppliers into disrepute;
- d. publish any material that is illegal or defamatory, a breach of copyright or confidentiality, or which may promote others to engage in illegal or defamatory activities; or
- e. infringe any Person's Intellectual Property rights.

### **31. Suspending or terminating your Service**

31.1 **ClubTelco** may suspend or terminate a Service if:

- a. you breach these Customer Terms;
- b. we are entitled to under another provision of these Customer Terms;
- c. we reasonably believe it is necessary to do so, in order to maintain, repair or restore the Service, or any part of the Network, or for other similar operational reasons;
- d. we cannot enter your Premises to install, inspect, repair, maintain, replace or remove any Equipment or Facility connected with the Service;
- e. an emergency occurs;
- f. in order to comply with the law or other regulatory authority such as the ACMA;
- g. we reasonably believe that providing the Service to you is illegal;
- h. we reasonably suspect fraud, attempted fraud or other illegal conduct by



- i. you or any other Person using your Service;
- i. you vacate your Premises without giving notice or without obtaining prior approval from us or we are no longer able to contact you using the contact or billing details you have provided to us;
- j. you die and we reasonably believe that we are unlikely to receive payment for amounts due and payable;
- k. you fail to pay your debts by the due date, you become bankrupt or insolvent or subject to a petition in bankruptcy, winding-up order or similar insolvency event or we have reasonable grounds to believe that you are likely to become so; or
- l. we have reasonable grounds to believe that you represent a credit risk in relation to your Service. We have reasonable grounds to suspect you are a credit risk if:
  - i. your Service has an unusually high volume or spend when compared to previous activity for that Service or compared to other Customers using the same Service;
  - ii. you fail to respond to our Notices about an unusually high volume or spend in relation to your Service; or
  - iii. you fail to pay Charges on your current invoice by the due date and your account history shows a series of late payments, dishonoured payments or a failure to pay any outstanding Charges we have previously billed (excluding those Charges the correctness of which you have specifically and genuinely disputed in accordance with clause 20).

31.2 We will take all reasonable steps in the circumstances to notify you before we suspend or terminate a Service, and if we are unable to give you Notice we will attempt to contact you by telephone. Depending on the circumstances of the suspension, you may still be liable to pay by the due date all Charges arising during the suspension. If we suspend or terminate the services for unpaid charges or for any other reason, subsequent reconnection may incur a reconnection fee as set out in our Schedule of charges. It is acknowledged that on termination of supply of the Service, your right to use any email address or corresponding web space URLs provided as part of the Service will cease. If an account has a toll bar applied to an account, the Customer will be charged \$55.

31.3 Either of us may terminate a Service provided under these Customer Terms without cause, by giving the other party not less than 30 days written Notice. Early cancellation of Service will result in the forfeit of any monies or payments made in advance (such as any Network access Charges which you have paid in advance). You are liable for all payments for all Services. Connection fees are non-refundable if you terminate the Service after ordering but prior to installation. A cancellation fee is due if you cancel after installation, but before the end of your Plan term (if applicable).

31.4 You may terminate a Service provided under these Customer Terms immediately if you transfer your Service to another Supplier in accordance with clause 10 or if you vacate your Premises where you had a fixed Service and we are not able to transfer that Service to other Premises.

31.5 Subject to any other express rights or obligations either of us may have under these Customer Terms, either of us may terminate a Service provided under these Customer Terms immediately on giving the other party Notice, if the other party materially breaches these Customer Terms.

31.6 If **ClubTelco** approaches you to apply for a Service and you change your mind after registration with the **ClubTelco** Service, you must advise **ClubTelco** within 10 days of the date when you initially agreed to join **ClubTelco**. You must contact **ClubTelco** immediately to cancel your application to avoid cancellation fees in

addition to any other expenses **ClubTelco** has incurred. This can only be done by the following: telephone 13 TELCO (13 8352), email to [contactus@clubtelco.com](mailto:contactus@clubtelco.com), fax 1300 420 819, in writing 'Attention **ClubTelco** Cancellations' PO Box 6262 St Kilda Rd Central, VIC 8008. The cooling off period is not available to Customers who entered into their initial agreement for the **ClubTelco** Service with a **ClubTelco** authorised dealer in a retail store, by calling **ClubTelco** and applying to be a Customer or to Business Customers. If you terminate a Service provided under these Customer Terms after the required statutory "cooling off period" but before we have provided you with the Service, then we may charge you for any reasonable costs we have incurred in preparing to provide you with the Service.

- 31.7 If a Service provided under these Customer Terms is terminated for any reason, including by you in accordance with clause 3.2, you will be required to pay the following Charges:
- a. usage and Network access Charges incurred up to the date the Service was terminated; and
  - b. any outstanding amounts that cover installation costs or Equipment as stated in the relevant Plan or Offer (for example, any outstanding payments for your mobile handset),

provided that if you terminate in accordance with clause 3.2, you will only be required to pay the outstanding amounts for Equipment we have provided or installed if that Equipment may be used by you to obtain services from another service provider (for example, if you are able to use your mobile handset to obtain a service from another service provider). Please refer to clauses 31.10 and 31.11 regarding when you must pay outstanding amounts for Equipment.

- 31.8 If you and we have agreed that you will acquire a Service from us for a minimum term (for example, 12 months), and you terminate that Service without cause in accordance with clause 31.3, or we terminate that Service for cause in accordance with our termination rights under these Customer Terms due to acts or omissions by you, you will be liable for:
- a. the Charges set out in clause 31.7; and
  - b. the Network access Charges (if applicable) for the remaining months of the minimum term; and
  - c. an early termination fee to cover our administrative costs (if such a fee was stated as part of the Plan or Offer).

- 31.9 If you are required to pay an outstanding amount for any Equipment in accordance with clause 31.7 because:

- a. we terminate a Service due to your breach of the terms of these Customer Terms; or
- b. you terminate a Service without cause,

then you must pay the outstanding amount by the due date shown on the appropriate Invoice.

- 31.10 If a Service provided under these Customer Terms is terminated for any reason other than the reasons listed in clause 31.9 and you are required to pay an outstanding amount for any Equipment in accordance with clause 31.7, you may, at your option, either pay the entire outstanding amount within 30 days of termination or continue to pay in instalments in accordance with your existing instalment Plan. However, if at any time after termination, you fail to pay any amount due under any instalment Plan by the due date, **ClubTelco** reserves the right to require you to pay all outstanding amounts within 30 days of the missed due date.

- 31.11 If all your Services provided under these Customer Terms are terminated, then these Customer Terms will also terminate on the date of termination of those Services.

## **32. Liability and warranty**

You warrant that you have not relied on any statement, representation or promise made by us or on behalf of us which has not been expressly stated in these Customer Terms. You accordingly release us and each of our officers, agents and advisers from all claims, suits and demands of every kind (including negligence) arising from the relationship of the parties concerning this agreement before it was signed and from the negotiations leading to it.

## **33. Terms implied by law**

33.1 Consumer legislation may imply terms, conditions or warranties into contracts for the supply of goods or services that cannot be excluded, restricted, modified or limited (for example, that *services* must be provided with due care and skill and *goods* must be reasonably fit for their purpose and be of a certain quality). In the event that a term, condition or warranty is implied into our Customer Terms and we breach that implied term, condition or warranty then, subject to clause 33.2, we accept liability for that breach.

33.2 Where we are permitted to limit our liability, our liability for breach of a term, condition or warranty implied into our Customer Terms by law will be limited (at our option) to:

- a. in the case of goods, repairing the goods, replacing the goods or supplying equivalent goods, or paying you the cost of that repair, replacement or equivalent supply; and
- b. in the case of Services, resupplying the Services to you or paying you the cost of having the Services resupplied.

The limitation and exclusion in this clause 33.2 does not apply:

- a. to goods or Services which are of a kind which are ordinarily acquired for personal, domestic or household use; or
- b. if it would be unconscionable or not fair and reasonable for us to limit our liability as stated in this clause 33.2.

We exclude all terms, conditions and warranties that, in the absence of this clause, would otherwise be implied into these Customer Terms, except to the extent that such exclusion is prohibited by law.

## **34. When we are not liable**

34.1 We are only liable to you in the circumstances set out in **clauses 5.3, 34.5 and 33**. Otherwise, we are not liable to you in contract, tort (including negligence) or otherwise, for any loss or damage incurred by you.

34.2 We have no liability to you or to any other Person for any:

- a. acts or defaults of Suppliers who provide services directly to you for use in connection with the Services;
- b. faults or defects in Services or software which are caused to any material extent by your own conduct or misuse; or
- c. faults or defects that arise in telecommunication services not provided under our Customer Terms which are due to incompatibility with the Services.

34.3 We will not be liable for any failure or delay in our performance of any obligation under the Customer Terms if an event occurs that is beyond our control, for example an explosion, natural disaster, earthquake, war (declared or undeclared) or act of God.

34.4 The limitations stated in this clause 34 do not apply to the extent that they are contrary to law.

34.5 If we are negligent in our supply of Services to you and our negligence in supplying Services causes personal injury, death or damage to your property we will be liable for our negligence.

### **35. Your liability to us**

- 35.1 As the Customer for a Service, you and one or more others, are each jointly and individually liable for all Charges and any other obligations relating to the Service.
- 35.2 Unless expressly stated elsewhere in these Customer Terms, you are not liable to us in contract, tort (including negligence) or otherwise, for any indirect loss or damage incurred by us.
- 35.3 You indemnify us against (and must pay us for) any loss (including but not limited to legal costs) that we may reasonably incur or suffer in relation to any breach of these Customer Terms or your misuse of the Service.
- 35.4 The limitations stated in this clause 35 do not apply to the extent that they are contrary to law.

### **36. Personal Information**

- 36.1 We will comply with the *Privacy Act 1988* when using your personal information and we may collect, use and disclose this information in accordance with our Privacy Policy. Our Privacy Policy can be viewed on our website at [www.clubtelco.com](http://www.clubtelco.com) or you may obtain a copy of this policy by calling 13 TELCO (13 8352).
- 36.2 From time to time, we may use your information to tell you about other **ClubTelco** products, Services or bundled offerings. You may stop receiving direct marketing from us by calling us on 13 TELCO (13 8352).

### **37. Special Assistance**

- 37.1 If you have difficulties with the English language, you or a nominated Person can arrange an interpreter by contacting the Translation and Interpreter Service on 131 450.
- 37.2 If you have a hearing impairment you or a nominated person should contact the National Relay Service by phoning 1800 555 660. The National Relay Service will be able to assist you to call **ClubTelco**. The National Relay Service has different numbers for different needs and you should consult your directory to obtain the number that best meets your needs.
- 37.4 If, for example, you are experiencing financial hardship and you have any difficulties in explaining your situation to our Customer service centre staff; you may be able to obtain the services of a customer advocate to act on your behalf. Please consult your directory to obtain the details of an advocate who may be able to assist you. In order to allow our Customer service centre staff to discuss your needs with the customer advocate, you must be in a position to give your authority to the Customer service centre either verbally or in writing. If you have genuine financial hardship and you have contacted us using the services of a customer advocate, we may be able to assist you with payment plans and, where appropriate, enhanced rights to terminate these Customer Terms.
- 37.5 To act for another Person under a power of attorney you will need to fax or mail to **ClubTelco** a copy of the power of attorney and the account number and name to which the power of attorney relates. On receiving the power of attorney we will record a note on our system that there is a power of attorney over that account.

### **38. Assignment**

- We may assign our rights and obligations under these Customer Terms to:
- a. a Related Body Corporate (being a company within our corporate group);
  - b. one of our service providers for the purposes of outsourcing and resupplying our Services to you; and
  - c. a purchaser of the applicable part of our business,
- on the condition that the assignee provides the Services to you on the same terms and conditions as we provide them to you.

**39. Severance**

If any term (or part of a term) in our Customer Terms is void or unenforceable, that term (or part) will be severed and the remaining terms will not be affected.

**40. Entire Agreement**

These Customer Terms and attachments govern our agreement and contain the entire understanding between you and **ClubTelco** to the exclusion of any prior or collateral agreement or understanding of any kind relating to a Service.

**41. Waiver**

The failure by either of us to exercise any right or remedy under these Customer Terms in a timely manner will not constitute acceptance of the matter which gave rise to the right or remedy, nor either or our waiver of such right or remedy.

**42. Complaints**

42.1 If you have any concerns about the Services we are providing to you, you should contact us immediately. We will endeavour to resolve any problem or complaint you have as quickly and effectively as possible. If you are not satisfied with the initial outcome of your complaint, the matter will be reviewed in accordance with our complaints procedures. Contact Customer Service on 13 TELCO (13 8352), email [contactus@clubtelco.com](mailto:contactus@clubtelco.com) or log a complaint via contact us at [www.clubtelco.com](http://www.clubtelco.com).

42.2 If we cannot resolve your concerns to your satisfaction, you can refer those concerns on to the Telecommunications Industry Ombudsman or the Australian Communications and Media Authority. The Office of Fair Trading (or equivalent) in your State or Territory may also investigate consumer complaints.