

# VostroNet

## GENERAL TERMS & CONDITIONS

These Standard Terms and Conditions apply to services supplied to consumers by VostroNet (Australia) Pty Ltd in Australia trading as "VostroNet" and VostroNet (New Zealand) Ltd in New Zealand trading as "VostroNet".

### 1. The Agreement

- 1.1. An agreement is formed when you apply to acquire a service from us and we accept your application. The application may be made over the phone, or by completing an online application. You warrant that you are over 18 years of age and legally entitled to enter into the agreement.
- 1.2. The agreement will be made up of:
  - a) Your application;
  - b) The description of the service package;
  - c) Any information or other document provided to you by VostroNet relating to the service during the application process; and
  - d) These Standard Terms and Conditions.
- 1.3. If there is an inconsistency between any part of the agreement, the inconsistency will be resolved according to the following order of priority:
  - a) The service description;
  - b) these Standard Terms and Conditions; and then
  - c) your application.

### 2. Period of the Agreement

- 2.1. The agreement commences when your application is accepted by us.
- 2.2. For contracts other than fixed period contracts, the agreement will continue until it is terminated by either party or otherwise per the Agreement.
- 2.3. For fixed period contracts, the agreement will continue:
  - a) for the minimum contract period referred to in your application or; in the service description or plan brochure; or
  - b) until it is terminated per clause 2.2.
- 2.4. If neither you nor we cancel the agreement at the end of the fixed period contract, we will continue to supply the service to you on a month-to-month basis.
- 2.5. If we will not continue to provide the service to you at the end of the fixed-period contract or if we wish to change the terms of the agreement, including

charges, we will advertise changes of the plan or inform you of this at least 30 days before the end of the fixed period contract.

### 3. Changes to the Agreement

- 3.1. We may change the Agreement in the following circumstances:
  - a) Where you agree to the change;
  - b) Where the change will not adversely affect you and, before the changes take effect, we have given you notice of the change;
  - c) Where the change is to introduce or vary a fee or charge to pass on a tax or levy imposed by law and, before the changes take effect, we have given you notice of the change;
  - d) Where the change is to introduce or to vary a charge associated with content or a premium service where we rely on a third party for the service and the third party increases its price to us and, before the changes take effect, we have given you reasonable notice of the change;
  - e) If the agreement is a fixed period contract and the change is adverse to you, and we provide to you not less than 21 days notice of the change.
- 3.2. We may withdraw any plans/packages at any time by giving you notice but such withdrawals will only take effect from the end of your then current fixed-period contract.
- 3.3. Notice of a change to the Agreement may be given by us:
  - a) by email to your nominated account email address,
  - b) with or as part of a bill, or
  - c) otherwise in writing, including by fax or mail.
- 3.4. Changes to these standard terms or a service description will be made available online and you are encouraged to check our website regularly.
- 3.5. If we change the agreement under clause 3.1(e), you may cancel the agreement within 30 days of the date of the notice without incurring charges, other than usage or network access charges to the date the agreement ends and outstanding amounts for installation or; for equipment with other suppliers' services.
- 3.6. Your ongoing use of the service after the date of a variation, alteration, replacement or revocation or on the expiry of the 30 day period, is deemed

acceptance of the variation, alteration, replacement or revocation.

#### 4. Applications

- 4.1. You warrant that information provided to us in the application is true and correct in all material respects and you acknowledge that we will rely on it. You agree that, if you give us incorrect information during your application which is then relied upon and used by a third party carrier for the provision or attempted provision of a service, you will be liable for a resubmission payment to us.
- 4.2. An application for Service may be refused by us in the following circumstances:
  - a) Where there is a technical limitation to our ability to provide you with the service, including where there are network capacity constraints;
  - b) Where you have not completed an application process correctly or have been unwilling to provide us with a document or information we require;
  - c) Where you do not meet our credit assessment criteria.
- 4.3. By applying for a service, you authorise us to communicate with credit referencing bodies/associations about your credit history and in so doing to provide them with the details that you have provided to us. We may do this from time to time during the term of the agreement
- 4.4. We may apply restrictions to a service where you have not met our credit assessment criteria. We will advise you of the general nature of the reasons for these restrictions and, if applicable, how you may access services which have been restricted.
- 4.5. We may pay commission to a dealer or agent acting on our behalf who is involved in your application process.

#### 5. Your Private Information

- 5.1. As part of your application and in connection with providing a service to you, we will obtain private information about you.

VostroNet may be required by law to collect, retain and provide certain Personal Information about you, including your name, address, data usage and telephone number.

- 5.2. We use our best endeavours to comply with a privacy policy which is available on our website or by contacting us. This policy governs the information we collect about you, how we use it and your rights to access it. You consent to us to collect and disclose your personal information including any unlisted telephone number and address from or to:
  - a) any credit providers or credit reporting agencies to use the information for all purposes permitted by the Australian Privacy Act (1988)

including to obtain a credit report about you or your registered business, maintaining a credit information file about you, or notifying a default by you;

- b) any law enforcement agencies to use the information to assist them in the prevention or prosecution of criminal activities;
  - c) to conduct ongoing credit management of your account;
  - d) any of our shareholders, related entities, suppliers, agents or professional advisers for reporting, accounting, product supply and service, marketing and audit purposes;
  - e) any upstream supplier to us to use the information for any purposes connected with the service or your use of the service; and
  - f) any person who provides us with your username(s) or password(s).
- 5.3. From time to time we will update you on our services, packages, news, promotions and offers including those from related or affiliated organisations. You consent to us contacting you at any time (including after you have terminated the agreement), for this purpose through any available contact methods. You can withdraw your consent at any time by contacting us.

#### 6. Minimum Contract Period

- 6.1. The minimum contract period is the minimum fixed period during which you must acquire the service. The minimum contract period may be specified in your application or in the plan. The minimum contract period commences when the service is activated.
- 6.2. If, during the minimum contract period, you cancel the service or we cancel the service because of your default, you may be liable to pay an early termination charge which is either set out in the plan brochure or in the service description.
- 6.3. Once the Minimum Contract Period is over, your service will continue to renew automatically, and you will continue to be charged for the service, until such time as you or we cancel the service.

#### 7. Usage

- 7.1. You acknowledge that charges will be incurred when the service is used. Therefore, it is important that you take steps to ensure that such usage does not occur without your authorisation. You should ensure that you are in control of all devices that might make use of your services, such as computers, handsets, mobile phones, and wireless devices connected to your service and that third parties cannot access or use such equipment without your authority. You acknowledge that usage of some services can occur because of an infection of your computer with a virus or due to other unauthorised third party intrusions. You should ensure that you have appropriate

protection systems operating on your equipment to restrict or limit the possibility of unauthorised usage.

- 7.2. As we are not able to control access or usage of your handsets and other equipment, you are responsible for all usage charges in respect of the use of the service, whether or not such usage was authorised by you, unless the usage was caused by a mistake by us.
- 7.3. The number and use of devices connected to our network is limited:
- A maximum number of personal devices for the account holder's individual use will be allocated based on your selected plan.
  - Routers, switches, hubs, repeaters or re-transmission devices are not permitted on the network. Where such devices are found they will be blocked for access.
  - Resale, on-selling, bundling, sharing or external access (including free wifi stations under accounts) is not permitted.
  - You are not permitted to authorise a third party to use your service without direct supervision or written authorisation by us.
- 7.4. You acknowledge that we cannot be held responsible for any loss incurred by you because of faults and/or failures within a third party carrier's network infrastructure.
- 7.5. While we will use our best endeavours in providing the service, you use it at your own risk. Even if you lose some equipment or permit another person to use your service, you are solely responsible for its use including:
- the sites and content accessed;
  - the content or software downloaded and the effect it may have on your equipment or service;
  - the products and services purchased;
  - the information provided to others;
  - the installation or use of any equipment or software whether provided by us or not;
  - the modification of any settings or data on your service or related services or equipment whether instructed by us or not;
  - the personal supervision of any users under the age of 18 who use the service; and
  - the lawfulness of your activities when using the service and accessing any sites and third party content.
- 7.6. The service is provided to you on the basis that it is used only for approved purposes. In particular you must:
- not use the service in any manner involving illegal, malicious, deceptive or misleading activity;
  - not breach any standards, content requirements or codes set out by any relevant authority or industry body;
  - not use the service in any way which interferes with the operations of the service network,

- anyone else's enjoyment of their service or which upsets or offends any person;
- not use the service for commercial purposes or in any way distribute or resell the service without our written permission;
  - obey all laws, regulations, guidelines and our reasonable instructions concerning your use of the service;
  - give us all information and cooperation that we may need in relation to the service; and
  - advise us of changes in your personal information such as account details, debit or credit card details and expiry dates and billing and service addresses.

- 7.7. You must not use the service in a way which contravenes any fair use policy that applies to the service.
- 7.8. We may suspend, limit, control or terminate your service if, in VostroNet's reasonable opinion, the service has been directly or indirectly involved in activities that are detrimental to our internet service or jeopardise the use of our service or its performance for other customers or how the wider community will perceive VostroNet. Such activities include, but are not limited to:
- for illegal purposes or practices;
  - in any way which damages, interferes, or has the potential to threaten or interfere with the operation of the delivered Service or with the efficiency of our Network or a Supplier's Network;
  - in any way which makes it unsafe or which may damage any property or injure or kill any person;
  - to transmit, publish or communicate any material or engage in any conduct which is defamatory, abusive, menacing or harassing;
  - to access, store, reproduce, distribute, publish or commercially exploit any information or material of any kind that infringes any copyright, patent, trade mark, design or other intellectual property right;
  - to send, relay or distribute any electronic data, the contents or properties of which have been manipulated for the purpose of maliciously or illegally impersonating or obscuring the original source of that data;
  - to access, monitor, use or control any other person's equipment, systems, networks or data or to otherwise probe, scan or test the vulnerability of any other person's equipment, networks, systems or data, without that person's consent;
  - to access, or attempt to access, the accounts or private information of others, or to penetrate, or attempt to penetrate, our or a third party's security measures, computer software or hardware, electronic communications system or telecommunications system;

- i) to use or distribute software with the intent of compromising the security of any network or system;
- j) to access, store, reproduce, distribute or publish any content which is prohibited or unlawful under Commonwealth, State or Territory law or classification system, or to provide unrestricted access to material that is unsuitable for minors.
- k) to make inappropriate contact with children or minors;
- l) for any purpose if we advised you that such purpose was prohibited in your Application or the relevant Service Description;

In any of the above circumstances, if we elect to proceed without giving notice, we will initially suspend the service and will provide you notice of the suspension having occurred and the grounds on which the suspension was made. We will reasonably consider any evidence or submissions you may provide to us to demonstrate that the service was not used for the activity. If we are satisfied that the service was not used for the activity, we will reinstate the service as soon as practicable. If we are not so satisfied, we will terminate the service by giving notice.

- 7.9. What constitutes inappropriate use will be determined by us, at our sole discretion provided that we act reasonably.
- 7.10. We may monitor the use of your service, however we do not promise to do so. If we identify excessive use or unusual activity we may temporarily restrict or suspend your service. If we do so we will endeavour to contact you via your nominated primary contact details. We may require an advance payment before your service is restored. You should not rely on us to contact you or to suspend your service in the event of excessive or unusual activity.
- 7.11. We may investigate any misuse of the service by you, in conjunction with relevant law enforcement agencies. If your use of the service results in loss to other users or us, you may be liable to pay compensation.

## 8. IP Addresses

- 8.1. You agree that the IP Address(es) issued to you for use in connection with a service are only issued to you for the duration of a session period and during the term of your acquisition of the service. On termination of the session and/or service, your right to use the IP Address(es) ceases.
- 8.2. We are responsible for all DNS delegation and routing in connection with the service.

## 9. Billing and account payment

- 9.1. The plan brochure or service description may provide that bills will not be issued. If that is so, charges will

be incurred notwithstanding that no bill has been issued.

- 9.2. Where we have agreed to issue bills, we will send to you by mail or email notification a tax invoice at the end of billing periods unless the plan brochure stipulates otherwise. You must pay all outstanding amounts by the due date as shown on your tax invoice.
- 9.3. Usage records and download times can vary from time to time. Whilst we aim to do so, we are unable to guarantee that all usage records during a billing period will appear on the corresponding bill.
- 9.4. Payments may be made to us through our available payment methods. Service fees and charges may apply for some available payment methods. We will apply payments made by you against outstanding tax invoices at our discretion.
- 9.5. If we make our direct debit facilities available to you and you elect to use them, and we have not received your payment by the due date, unless we agree with you otherwise, we will debit your nominated account on or after the due date. We may continue to do so at any time until all amounts due are paid. We will provide SMS or email notification when debits are made.
- 9.6. Where in our opinion you have a reasonable claim or dispute with an invoice or a debit, we will suspend our collection or recovery processes until a determination on your claim or dispute has been made. We will reimburse any incorrectly debited amount as soon as reasonably practicable.
- 9.7. All administration, registration and set-up fees are non-refundable. You may exchange or receive a refund for equipment which has not been opened or used and has been returned to us within 30 days of purchase.
- 9.8. If you require us to send to you a printed copy of an invoice, this may be subject to an administration fee.
- 9.9. Accepted credit cards: Visa, Visa Debt, MasterCard, MasterCard Debt. We reserve the right for accounts paid with Credit Card to incur a surcharge of 2.5% (inc. GST) of the debited amount when we debit the card.
- 9.10. You are responsible for ensuring there is sufficient funds/credit available in your nominated credit card or direct debit account at any time we debit the account. You must pay dishonour fees and any other charges, expenses or losses resulting from our attempting unsuccessfully to debit the credit card unless the failure was due to a clear error on our part.

- 9.11. You are required to inform us if your credit card is due to expire at least two weeks prior to the expiry date and are required to provide us with details of a current credit card. You must also advise us if your nominated direct debit account is transferred or closed, or the account details have changed.
- 9.12. VostroNet will not accept Prepaid Visa/Master credit cards or gift cards.
- 9.13. If you have failed to pay to VostroNet an amount which is due, we may refer the debt to a third party collections agent for the purpose of collection activity. You must pay, and agree to pay all costs, charges and expenses that we may incur in relation to our attempts to recover all debts due by you to us, including accounting, mercantile agents costs and interest.

## 10. Suspension/Disconnection of the service

- 10.1. If your fixed period contract has expired or you are on a month-to-month contract, you or we may disconnect the service and cancel the agreement at any time by giving 30 days notice.
- 10.2. If you fail to comply with what we consider to be an important term or condition of this agreement or should you fail to comply with a number of less important terms and conditions then we can suspend or disconnect your service or reroute calls from your service. We will generally provide you with notice of your failure and allow you a reasonable time to remedy it. However we may suspend or disconnect your service without notice to you where:
- a) you exceed the amount of your data limit or credit limit;
  - b) there has been, in our opinion, unusual activity on your service such as:
    - I. usage of the service which is extremely high compared to your usage of the service in prior months and which will result in you incurring high charges; or
    - II. activity that is consistent with your service or equipment connected to your service having been infected with a virus or other malicious software; or
    - III. other activity that VostroNet reasonably believes is evident that the service is being used for fraudulent or other illegal purposes;
  - c) you have not paid charges when due and have not remedied that failure within what we consider to be a reasonable time;
  - d) you do something which we believe may damage the service network;
  - e) you are no longer approved by us under our assessment policies or otherwise to receive the service;
  - f) an authority such as the ACMA or enforcement agency instructs us to do so;
  - g) we believe that you have used your service to commit unauthorised, criminal or unlawful activity;

- h) you vacate the premises in which you are provided the service without notifying us beforehand;
- i) there are technical problems with the service network or the service network requires repairs or maintenance;
- j) we believe it is necessary to comply with our legal obligations;
- k) we are entitled to do so under the specific terms and conditions of your plan or package;
- l) you abuse, attempt, threaten or cause harm to any staff, equipment or network infrastructure of ours or any of the service networks.

- 10.3. In the following additional circumstances we may suspend or disconnect your service(s) or reroute your service(s) but we will provide you with reasonable notice prior to doing so:
- a) you do anything which we believe may damage the service network;
  - b) you have used the service, in our opinion, other than in accordance with the agreement;
  - c) you do not comply with the terms set out in a Plan Brochure, Critical Information Summary or a Service Description.
- 10.4. Where one or more services included in a bundled offer(s) are disconnected, entitlement to any discounts under such offers may be forfeited.
- 10.5. While your service is suspended or disconnected we will continue to charge you any applicable fees and charges. We will only do so where the suspension or disconnection is due to your failure to comply with your obligations under this agreement, or is performed at your request.
- 10.6. Where we disconnect your service before the expiration of the minimum term of your plan you will be liable for any outstanding fees and charges, including the remaining access fees on your plan plus a plan cancellation fee if applicable. We will only charge a plan cancellation fee in circumstances where you have failed to comply with an important term or condition of our agreement.
- 10.7. We are not liable to you or any person(s) claiming through you for any loss or damage arising from suspension or disconnection of your service in accordance with this clause.

## 11. Force Majeure

- 11.1. We will not be 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 or circumstance reasonably beyond our control, including but not limited to; war, accident, civil commotion, riot, military action, sabotage, act of terrorism, vandalism, embargo, judicial action,

labour dispute, an act of a government or a government authority, acts of God, earthquake, fire, flood, plague or other natural calamity, computer viruses, hacker attacks or failure of the internet or delay, or failure or default by any other supplier.

## 12. Liability

12.1. You may have certain rights and remedies under:

- a) the Australian Competition and Consumer Act 2010 (Cth) and other laws, which may imply certain conditions and warranties into this agreement; and
- b) the Customer Service Guarantee issued by the ACMA, which established the minimum connection and fault repair times, breach of which entitles you to certain specified amounts of damage.

12.2. We do not exclude or restrict or modify those rights, remedies or implied conditions and warranties.

12.3. Where we are liable for any loss or damage in connection with or arising from the breach of any term, condition, warranty or remedy implied by the Competition and Consumer Act 2010 (Cth) our liability is limited to resupplying, repairing or replacing the relevant service or equipment where the service or equipment is not of a kind ordinarily required for personal, domestic or household use or consumption and where it is fair and reasonable to do so.

12.4. You must let us know as soon as you become aware or believe that you have a claim against us.

12.5. We are not liable for any defamatory, offensive or illegal conduct or material found in connection with our services, including such conduct or material transmitted by any means by any other person

12.6. You indemnify us from and against all actions, claims, suits, demands, liabilities, losses, costs and expenses arising out of or in any way connected with your use of the service or the equipment in a manner contrary to the terms of this agreement.

12.7. Where you are two or more persons your liability will be joint and several.

## 13. Assignment

13.1. You may transfer your rights and obligations under this agreement to other person(s) approved by us under our assessment policies.

13.2. Where we reasonably consider there will be no detriment to you, we can without your permission and without notice:

- a) transfer our rights and obligations under this agreement to our nominee;
- b) temporarily or permanently delegate our obligations under this agreement to our nominee; or

- c) novate this agreement to our nominee by ending this Agreement and entering into a new agreement between you and our nominee, on terms similar to this Agreement.

13.3. If we do any of the above, the transfer or delegation or novation will take effect when the relevant document is signed. You irrevocably appoint us as your attorney to sign any necessary documents to enable the transfer, delegation or novation to take effect.

## 14. Governing law

14.1. This agreement is governed by the laws of the state of Queensland, Australia.

## 15. Meaning of words

15.1. Terms used in this Agreement have the following meaning unless the context suggests otherwise.

- a) ACMA means the Australian Communications and Media Authority.
- b) agreement means the agreement for the provision of the services between us comprising the items outlined in clause 1.2 of these standard terms.
- c) data limit means a usage threshold we may impose on use of your internet service.
- d) available service area means locations in which the service network is capable of providing service. Information on coverage areas is available by contacting us or visiting our website.
- e) billing period means the period in which you are billed by us for service. You will have 12 billing periods per year unless we agree otherwise.
- f) billing run means the process of producing a bill for you. Each billing run corresponds to a billing period.
- g) carriage service provider means a Telecommunications carriage service provider authorised under the Telecommunications Act 1997.
- h) contact method means mail, SMS, MMS, email or telephone.
- i) credit assessment policies means those rules we use to determine whether we wish to accept or decline to provide or continue to provide you with the service. These policies may change from time to time without notice to you. Under these policies you must: be at least 18 years of age; be capable of entering into a legal contract; be alive; not be insolvent or bankrupt or subject to any proceedings to make you insolvent or bankrupt; where you are in a partnership, the partnership must not have been dissolved; where you are a company neither you nor any of your assets may have been assumed under the terms of a debt security instrument or under court order or otherwise appointed.
- j) credit limit means a limit we may place on your use of a service or on amounts you owe us at a point in time.

- k) current supplier means a carrier or telecommunications carriage service provider who supplied telecommunications to you at the time of signing the agreement.
- l) customer care policies means the policies, procedures, terms and conditions under which we provide services. Our customer care policies are updated from time to time and are available on our website or by contacting us.
- m) customer service guarantee means the current minimum performance standard set by the ACMA under sections 115, 117 and 120 of the Telecommunications (Consumer Protection and Service Standards) Act 1999.
- n) direct debit date means the date, on or after the due date, on which we will automatically debit your direct debit facility for amounts due.
- o) direct debit facility means the debit account or credit/charge account nominated by you for the debiting of your fees and charges.
- p) due date means the date the amount shown on your tax invoice is due to be paid to us. The due date is not less than 14 days after the tax invoice date.
- q) enhanced services means the services we provide that are designated by us as enhanced services. Our website and plan brochures will detail which services we have designated as enhanced services.
- r) equipment means the item(s) required or otherwise used in conjunction with your service such as personal computers, software and modems purchased from us or otherwise.
- s) factsheets means detailed information made available on our website or otherwise.
- t) fees and charges means fees and charges payable by you under your plan and under this agreement including any amounts of applicable GST.
- u) internet service means the standard network service comprising connection to the site and core network of VostroNet which provides internet transit and peering services plus any other service(s) offered by us including any enhanced services.
- v) fixed period contracts are entered into where you commit to a minimum period for which you will acquire the service and may be set out in the plan brochure but do not include month to month contracts.
- w) GST means the tax imposed by A New Tax System (Goods and Services Tax Imposition General) Act 1999 and any regulations to it or such other Act and regulations of equivalent effect.
- x) GST Act means A New Tax System (Goods and Service Tax) Act 1999.
- y) GST supply means a supply as defined in and which is subject to liability for GST under the GST Act.
- z) Hardware means any wireless, switches or routers or any equipment that we may provide from time to time.
- aa) package means a grouping of services and plans, which are sold together under specific terms and conditions.
- bb) passwords means the personal information or security codes such as your customer service account passcode or website password used by us to confirm that an individual has authority to enquire or transact on your account.
- cc) personal information has the same meaning as defined in the Privacy Act 2000.
- dd) plan means your plan for each of the service(s), the terms and conditions of which may include a minimum term, monthly fees and call charges as amended from time to time.
- ee) plan brochure is any brochure or another document (including a web page) which sets out the terms and conditions of a plan.
- ff) primary contact means the mobile or fixed line service number, email address or other specific contact designated by you and accepted by us to use as our primary means of contacting you in relation to your account.
- gg) service means any and all internet services that we provide to you including any enhanced services and also includes our customer support services. Information on our services is available on our website.
- hh) service network means the carrier or carriage service provider of the telecommunications services sold to you by us and includes the mobile network.
- ii) tax invoice date means the date you are issued with a tax invoice containing a fee or charge.
- jj) third party content means products and information provided by third parties to you, which you can access through your service.
- kk) third party content supplier means a party that provides third party content to you through your service.
- ll) (usage record means the record of a call or data transfer provided to us by the service network.
- mm) user means someone who uses a service, which may or may not be the account holder.
- nn) username means the username created by you when you registered for a particular service.
- oo) We, our, us mean VostroNet or any other member of the VostroNet group of companies which enters into the agreement with you.