

# Standard Form of Agreement (SFOA)



**vocal**  <sup>TM</sup>

100% Aussie Telco since 2003

## **1. OUR AGREEMENT WITH YOU**

- 1.1** As a customer of VOCAL these terms and conditions form the basis of our Agreement with you.
- 1.2** Our agreement with you also includes any application or order form, which you complete and provide to us. We may accept and rely on facsimile copy of the application or order form as if it was an original. A facsimile copy of the application or order form will bind you as if it was an original.
- 1.3** Our agreement with you may also include your application or order form, which we may complete on your behalf with your written authority. Written authorisations may be made in the form of an email. You will be bound by the email of your authority for us to complete the application form on your behalf.
- 1.4** Our agreement with you may also include your application or order form, which we may complete on your behalf with your verbal authority. Verbal authorisations may or may not be recorded by us. You will be bound by a verbal authority for us to complete the application form on your behalf.
- 1.5** Our agreement with you also includes our currently applicable price list. The price list may change from time to time, but we will notify you of any changes when they happen. Copies of the price list are available from us, upon request.

## **2. SERVICE DESCRIPTION**

- 2.1** Telecommunication Services will be supplied to you through the Carriers or Networks that we nominate.
- 2.2** Pursuant to Clause 7.12 of the TCP Code, we are required to inform you if we should ever intend to move or transfer your service(s) to an alternative wholesale provider network. Such notice if this should occur would be provided to you in writing and give sufficient notice prior to the proposed change as to ensure that the service(s) are not affected or that any proposed effects will be notified.
- 2.3** We do not warrant that we will be able to supply Services and we are not liable for any failure to provide all or part of any of the Services, but, to the extent and to the standard that Carriers provide Services to us, those Services will be provided by us to you. When your connection is disrupted; we will do our best to reinstate our Services to you as soon as we can.
- 2.4** When using the Services, you agree to comply with all statutes, regulations, by-laws or license conditions of any government body; and not breach any person's rights or otherwise cause us or a Carrier loss, liability or expense.
- 2.5** Where we are providing a fixedline service, albeit NBN Phone, PSTN, ISDN, VoDSL VoIP, SIP or any other voice service, we reserve the exclusive right to provide you with all Long-Distance Services from the date of the application.

- 2.6** Where we are providing a mobile service, albeit 4G, 3G or GSM Services, we will issue you with a SIM card to facilitate the use of the Service. The SIM card will remain the property of VOCAL at all times.
- 2.7** Where we are providing a broadband service, albeit ADSL, ADSL2+, SHDSL, Ethernet, Mobile Data or any other data service where a modem, modem router, USB modem, Wifi modem, IAD or any other device to facilitate the use of the service has been supplied by us or a third party; such device will remain the property of VOCAL or the third party at all times.
- 2.8** In the event that we are restricted or unable to deliver all or any part of the Services due to availability of the Services provided by the Carrier including any restriction as a result of your location from an enabled telephone exchange or where the Carrier does not have a point of presence, we reserve the exclusive right to terminate the agreement and not connect the Services or provide only the Services we can readily supply.
- 2.9** Our obligations to provide the Services cease when we transfer your account to another supplier and the other supplier take over full billing of those Services.
- 2.10** The re-supply of any of the Services is prohibited unless without our written agreement with you.

### **3. CHARGES AND PAYMENT**

- 3.1** You agree to be charged for the Services we provide to you, regardless of whether it is you who uses them, as determined in accordance with the rate plan for the Service or any other associated costs not specified in the rate plan such as and not limited to connection, disconnection, cancellation, withdrawal, emergency return, late payment fees, credit card merchant fees or other such charge as specified by us whether contractually, non-contractually, verbally, written, reasonably assumed or otherwise.
- 3.2** You agree to pay us for all calls made and charges incurred whether such charges are incurred as a result of using an override code, an automatic dialing device, through pre-selection, the rebilling of Carrier Services or network Services or otherwise.
- 3.3** Charges are exclusive of GST and the amount equal to any GST payable will be added in addition to the charges for Services as we will pass on to you the full amount of any taxes payable on the charges. We will issue a tax invoice to you for the supply of the Services.
- 3.4** You must pay accounts for all of those charges (including taxes) by the Due Date as specified on the invoice which is 14 days after the invoice date
- 3.5** If you dispute in good faith an amount in the account, you must notify us in writing within fourteen days setting out reasons for the dispute and the amount in dispute. Notwithstanding any dispute as to any amount of any

charge, you must pay the whole amount of each account by the Due Date.

- 3.6** If you do not pay the account by the Due Date, we reserve the right to charge a Late Fee or suspend all or part of your Services pending payment of outstanding amounts on the account. Nothing in this clause affects our rights to terminate this agreement under clause 8.
- 3.7** The Late Fee charged is \$10 and will be charged each and every month or part thereof until such time that no overdue amount remains outstanding.
- 3.8** If any amount is not paid by the Due Date or where it appears to us that the account maybe fraudulent, we may without notice, immediately restrict, suspend, cancel, deactivate or otherwise all or part of the Services. You agree to pay all charges associated with the reinstatement or reactivation of any Services
- 3.9** If you do not pay your account by the Due Date we reserve the right to disclose any personal information collected or recorded in relation to you and provide such personal information to a Debt Collection Agency for the purposes of recovering any amount owing to us. At this time the Debt Collection Agency will assume the responsibility of the collection of the outstanding amount and you will be liable to a further 27.5% surcharge or any such legal fee in order to recoup our recovery costs.
- 3.10** In consideration of us having agreed to supply the Services to you, the person entering into this agreement herby jointly

and severally guarantees the payment of all monies which are and shall or hereafter become due to us by you. This guarantee shall be continuing and shall not be affected by us giving time or any other indulgence to you, nor shall any of our rights to sue or provide your details to a Debt Collect Agency be affected.

- 3.11** Payments using a credit card will incur a credit card transaction fee. The surcharge applied for Visa or MasterCard is 2% of the total amount of each accepted transaction up to \$5,000. Payments using Diners Club and American Express are generally not accepted by us. We may accept either Diners Club or American Express transactions where prior approval has been provided by us. Such approval will be given under certain conditions or understandings including and not limited to a mandatory direct debit authority and credit card transaction fee where the surcharge is equivalent to that of our costs.
- 3.12** If you require an itemised bill to be printed and mailed, a charge of \$5 per printed monthly account will apply. Alternatively, itemised bills can be emailed as a PDF document or viewed via our website at no charge. Bill reprints incur a charge of \$15 per copy.
- 3.13** Payments of amounts greater than \$5,000 are to be made either by Electronic Funds Transfer (EFT) or cheque. If you pay any amount by cheque that is subsequently dishonored, a fee of \$27.50 for each dishonored cheque will be incurred.
- 3.14** Local and other call types maybe offered to you at a discounted rate when made in conjunction with the use of an override code. In order to make calls using the override

code you must either dial the override code prior to dialing each service number or program your telephone equipment where LCR is supported. If you do not use the override code, the calls that you have made may be charged at a different rate.

- 3.15** In the absence of manifest error or omission, accounts rendered by us will be conclusive evidence of the provision of the Services referred to therein and your liability to us in respect to such Services.

#### **4. AMENDMENTS TO TERMS AND CONDITIONS**

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

#### **5. CREDIT CHECK**

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

- (a) our obtaining from a credit-reporting agency a credit report containing personal information about you and



- our giving of personal information about you to a credit-reporting agency;
- (b) our giving to and seeking from any credit provider named in a credit report or in your application, information in relation to your credit rating including without limitation any information about your credit worthiness, credit history or credit capacity that credit providers are allowed to give or receive from other credit providers under the Privacy Act 1988;
  - (c) our making independent enquiries of third parties concerning your financial standing and for this purpose you have authorised and permitted such third parties to supply such information regardless of any confidentiality or privilege which applies to the information sought; and
  - (d) our providing any information you provide to us or we obtain about you to the relevant Carrier.
  - (e) we may refuse or cancel the supply of Services on the basis of a credit assessment of you. You are entitled to see, and to correct any credit information which we hold about you.

## **6. TRANSFER OF SERVICES**

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

- 6.2** You agree to pay to the Current Supplier any amounts owing for the Transferred Services up to the date of the transfer.
- 6.3** If you direct us to transfer any of the Services to another supplier, you will pay to us all of our accounts up until the time we stop providing the Services and all other proper charges that we become aware of after the date of transfer that relate to the Services we provided.
- 6.4** If you transfer any of the Services from us, you will pay to us all of our accounts up until the time we stop providing the Services and all other proper charges that we become aware of after the date of transfer that relate to the Services we provided.
- 6.5** Billing of calls and other service charges for transferred Services may carry forward to future billing periods for which you will be required to pay under our normal payment terms
- 6.6** In the event that your telephone equipment has been programmed with our override code, we may continue to charge calls for which you will be liable to pay. Any costs associated with your equipment which includes the removal of the override code or reprogramming of the override code is entirely your responsibility.

## **7. LIMIT ON LIABILITY**

- 7.1** We do not exclude or limit:
- (a) the application of any provision of any statute (including the Trade Practices Act 1974, the Privacy

Act 1988 or the Telecommunications Act 1997) where to do so would contravene that statute or cause any part of this clause 7 to be void; or

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

**7.2** Except where clause 7.1 applies, we exclude all statutory liability, tortious liability (including but not limited to liability in negligence), conditions and warranties implied by custom, the general law or statute, liability for all direct, economic, consequential or indirect losses, expenses, damages and costs incurred by you, arising out of or relating to the Services, any failure to supply or delay in supplying the Services or arising out of or relating to the programming of your telephone system or other network equipment or the disconnection of your existing equipment or connection/installation of our Equipment by us or our agent(s) or arising out of or relating to this agreement.

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

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

providing, replacing or repairing those goods or providing those Services again.

- 7.5** Subject to clause 7.1, we are not liable to you for any delay in the connection or failure in the operation of the Services or for any deactivation of the Services or part thereof (whether or not requested) or delay in or failure to activate or deactivate the Services or any part thereof.
- 7.6** You acknowledge that any liability of any Carrier to you in relation to the Services is governed by the terms and conditions on which that Carrier from time to time supplies that service to its own retail customers.

## **8. TERM OF AGREEMENT**

- 8.1** This agreement will commence on the earlier of the date of its signing by us or the connection of the Services by us.
- 8.2** We will provide Services to you for the Term of Agreement (if any) subject to these Terms and Conditions
- 8.3** At the end of the Term of Agreement we will continue providing Services to you until you notify us in writing that you no longer require the Services.
- 8.4** If you wish to cancel the Services before the end of the Term of Agreement you must give us written notice and pay all

applicable fees under this contract. Subject to you having paid all applicable Fees and complying with all other obligations under our contract with you, our contract will end one month after receiving your written notice.

**8.4** We may immediately terminate this agreement by written notice at any time if, without our prior written consent:

(a) you breach any term or condition of this agreement; a receiver or receiver and manager is appointed over any of your property or assets; a liquidator or provisional liquidator is appointed to you; you become bankrupt; you enter into any arrangements with your creditors; you assign or otherwise deal with your rights under this agreement; you cease to carry on business; or there is a material change in your direct or indirect ownership or control.

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

**8.6** If we terminate this agreement in accordance with this clause and a Carrier arranges to supply you Services other than through us, you acknowledge that:

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

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

## **9. INFORMATION**

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

**9.2** You authorise and consent to the following:

- (a) our conducting a physical audit of the Services and any equipment supplied in respect of the Services should we consider it necessary;
- (b) our exchanging with Carriers, Networks and suppliers all information about you and the Services provided to you in our possession or control including, but not limited to, your name, billing address, street address, relevant telephone numbers, any information obtained by us for the purpose of your application and this agreement;
- (c) the Carrier exchanging with us any information in the Carrier's possession or under its control in relation to the Services including, without limitation, all your records and, in particular, exchange line details, account information, call charge records and call event records; and

## **10. CONFIDENTIALITY**

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

## **11. ASSIGNMENT**

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

## **12. WARRANTY OF AUTHORITY**

Any persons signing this agreement or giving written or verbal authority as provided for in clause 1.2, 1.3 and 1.4 on your behalf warrant that they have full power and authority to bind you in respect of this agreement.

## **13. OUR EQUIPMENT**

- 13.1** Risk in any equipment provided by any third party or us to you for purchase or hire passes to you upon delivery. You will accept any Equipment on the basis of these Terms and Conditions and any additional terms and conditions notified at the time of delivery.

- 13.2** Title to any Equipment provided for purchase does not pass to you until all amounts owing to us under this agreement and the cost of such Equipment have been paid in full. Until title passes to you, the Equipment will be held by you as bailee for us.
- 13.3** If Equipment is installed at premises occupied by you, you must not interfere with the Equipment or its installation.
- 13.4** You irrevocably grant to us, our agents and servants, leave and license without the necessity of giving any notice to enter at any time on and into premises occupied by you using reasonable force if necessary to inspect, search for and re-take possession of any Equipment in respect to which payment is overdue. You shall indemnify us and hold us harmless against any loss or damage suffered by any person or company arising from such possession.
- 13.5** On the termination of this agreement for any reason, you will immediately return all Equipment owned by us or make it available for our collection.

## **14. OTHER EQUIPMENT**

- 14.1** Where you have a telephone system or other network equipment, you must ensure that it is programmed as we specify and will be responsible for the costs associated with any such requirement.



**14.2** Where you have equipment on premises you occupy which is used by another supplier to provide you with Services; we will disconnect that equipment when you transfer the Services to us and we connect our Equipment (if any). You must immediately notify that supplier that you have transferred your Services to us and arrange for them to remove their equipment from the premises.

## **15. MISCELLANEOUS**

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

**15.2** Clauses 2.6, 2.7, 2.8, 3, 5, 6.5, 6.6, 7, 10, 12, 13 and 14 shall survive the expiration or termination of this agreement.

**15.3** This agreement shall be governed by and construed in accordance with the law of New South Wales and the parties hereby submit to the non-exclusive jurisdiction of the courts of that State.

**15.4** This agreement contains yours and our entire understanding to the exclusion of any and all prior or collateral agreement or understanding relating to the Services, whether oral or written.

- 15.5 If any part of this agreement is found to be invalid or of no force or effect, this agreement shall be construed as though such part had not been inserted and the remainder of this agreement shall retain its full force and effect.

## 16. CUSTOMER SERVICE GUARANTEE (CSG)

- 16.1 The ACA has established certain minimum performance standards (**CSG Standard**) to be complied with by Carriage Service Providers in relation to the connection and fault rectification of the standard telephone service and the attending of appointments by Carriage Service Providers.
- 16.2 The CSG standard aims to protect residential and small business customers against poor service and provides financial compensation when these standards are not met. The CSG does not apply to mobile phone services, customer equipment or to customers who have more than five phone lines.
- 16.3 If you qualify as a residential or small business customer you may be entitled to claim specified damages if VOCAL fails to meet the CSG Standard. Further information is available from the Australian Communications Authority ("ACA") website at [www.aca.gov.au/consumer/csg](http://www.aca.gov.au/consumer/csg)

## 17. COMPLAINTS & FAULT REPORTING

- 17.1 If you wish to report a fault or make a complaint, you should call Customer Support on 02 96402555 or 1300 796700 during normal business hours (EST)
- 17.2 A 24-hour fault reporting service is provided, which is prioritized depending on the severity of the fault and escalated accordingly. VOCAL is responsible for rectifying

faults within its network. Where the fault is within another Carrier's network which is interconnected to the VOCAL network, VOCAL will notify that other Carrier of the fault and request that the fault be repaired promptly but will bear no further liability or responsibility. Faults can be reported toll free on 1800 796700.

- 17.3 If we respond to a fault reported by you and it is found to be caused by your equipment, or no fault in the Service exists, you may be charged a call out fee and, where applicable, VOCAL's service fees for fixing the fault. VOCAL also provides a high-level complaint escalation procedure for complaints, which are not resolved at the point of initial contact with VOCAL's customer service representative.

## 18. CONTACT INFORMATION

If you require further information regarding Vocal's SFOA, you can contact Vocal™ Customer Service Centre on:

Telephone: **1300 796700**

Vocal Channels Pty Limited  
PO Box 1020  
Surry Hills NSW 2010

Questions about the SFOA should be sent to us at [info@Vocal.com.au](mailto:info@Vocal.com.au).



Partial Service Provider of



**1300 796 700** | [www.vocal.com.au](http://www.vocal.com.au)

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