



MASTER SERVICES AGREEMENT BUSINESS TERMS

1. OUR AGREEMENT

1.1 Formation of Agreement:

- (a) These Business Terms set out the standard terms for the supply by us of Services and Products to you. From 16 August 2022, if you enter into a new services agreement, order form, voice verification agreement or sign-up agreement to order Products and/or Services from us, or you sign up to or re-sign for Services in any other way (each, an **Order Form**), these Business Terms apply (except to the extent we agree otherwise). Capitalised terms are defined in clause 25.
- (b) Each Order Form will:
 - (i) form a separate Agreement between you and us, in relation to the Services and Products specified in the Order Form; and
 - (ii) incorporate these Business Terms, the terms of any relevant Statement of Work (if applicable), and any documents or Website Terms that are referenced in these documents.

1.2 **Precedence of Terms:** This Agreement is comprised of the following documents. If there is any conflict of meaning, ambiguity or inconsistency between the various documents that form part of the Agreement, the provisions take precedence in accordance with the following order of documents (from highest priority to lowest):

- (a) Order Form;
- (b) Website Terms (as applicable);
- (c) these Business Terms; and
- (d) Statement of Work (if applicable).

Where another document not in the above list is referenced in one of the above documents, it also forms part of this Agreement and will have the same precedence as the document in which it is referenced.

1.3 Authorised Persons

You will advise us of the people (**Authorised Persons**) authorised by you to:

- (a) request changes to your account structure; and
- (b) change the list of Authorised Persons.

You are liable for all actions undertaken by your Authorised Persons under the Agreement.

Note: It's important that you read the whole Agreement, but some points we want to bring to your attention are:

- (a) **Changes**– these Business Terms, your Services and the Charges you pay for those Services can be changed. When we are able to make these changes, what will happen to your Services or Charges (including the circumstances in which we can change the minimum monthly charge) and how we tell you about the changes is set out in clause 7.
- (b) **Privacy** - we may collect information on how, when and where your Users or other representatives use our Services, and use this information to continually provide you innovative products and services tailored for your needs, wherever you are. If you want to know more about how we collect, use, store and protect information about your Users and other representatives and who we might share the information with, please read our **Privacy Policy** at vodafone.co.nz/legal/policy/privacy.
- (c) **Termination:** If you have signed up for a minimum term, then termination charges may apply if you terminate early or we terminate because of your breach of the Agreement. When you and we are able to terminate the Services or the Agreement, and what happens on termination is set out in clauses 11 to 13.
- (d) **Archived Terms and Conditions:** These Business Terms apply if you signed up to or re-signed for Services from 16 August 2022 (except to the extent we agree otherwise). If you signed up to or re-signed for Services before 16 August 2022, please see our website www.vodafone.co.nz/legal/terms-conditions/archive/ for the terms and conditions that apply to your Services.

2. TERM

2.1 **Agreement Term:** The Agreement will commence as specified in the Order Form or, where not specified, when we start providing the Services and will continue until terminated in accordance with this Agreement.

2.2 **Commencement of Services:** We will begin providing Services within the timeframe set out in the Agreement or, if no timeframe is set out, then within a reasonable time. We will provide each Service for the duration of the Service Term for that Service, subject to our rights of termination under the Agreement.

2.3 **Service Term:** The Service Term is the Service Initial Term and the Extended Term. For each Service the Order Form will specify the Service Initial Term. Following the Service Initial Term the Service Term will automatically continue until the Agreement or the Service is terminated in accordance with the Agreement (the **Extended Term**).



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3. OUR COMMITMENT TO YOU

- 3.1 **Services:** We will provide the Services to you:
- using all reasonable care and skill;
 - in a competent and professional manner;
 - in accordance with the terms of the Agreement, although we do not guarantee that the Services will be continuous or fault free; and
 - using people who have generally accepted industry standard qualifications and experience.
- 3.2 **Faults:** If you report a fault to us, we will respond in accordance with the relevant service level for the Service affected by the fault (as referred to in the relevant Service Description) or, if no service level is specified, then within a reasonable period.
- 3.3 **Maintenance:** From time to time we may temporarily suspend or restrict a Service so that we can carry out maintenance and development work on the Network. Where practicable we will try to notify you and schedule maintenance and repairs to minimise disruption to you. While we will endeavour to carry out maintenance and repairs at a time of least inconvenience, the Services are provided on a 'one-to-many' basis and, as such, we are unable to take into account each of our customers' specific requirements when scheduling maintenance and repairs.
- 3.4 **Site Access:** Where we or our third party suppliers will access your premises, we will provide reasonable notice and will comply with your reasonable security and health and safety requirements that you provide to us.

4. YOUR COMMITMENT TO US

4.1 Co-operation and access

- You will make sure that all information you give to us is complete and accurate. You must update us when your information changes (for example, if you change premises or contact details).
- If we provide Services that require locating our Equipment on your premises then you will give our representatives safe access to your premises so that we can install, inspect, maintain, replace or remove our Equipment.
- You acknowledge that you have no ownership or other rights in our Equipment located on your premises, which shall remain our property.
- If you are in rented premises then you will, before we install the Equipment, obtain the written permission of the owner for us to access and locate our Equipment on your premises for these purposes and the owner's acknowledgement that the owner will have no ownership or other rights in our Equipment.
- You will, if we ask you to, obtain any third party authorisation, licence, consent or acknowledgement that we reasonably require in connection with the provision of the Services and location of the Equipment (such as building consent).

4.2 **Your Equipment:** You will follow our reasonable instructions in relation to any of your equipment that you connect to our Network.

4.3 **Our Equipment:** You will:

- provide a safe and secure operating environment for our Equipment;
- take reasonable precautions to protect our Equipment from radio or electrical interference and power fluctuations;
- not damage or interfere with our Equipment; and
- pay any costs or expenses we reasonably incur repairing or replacing any of our Equipment that is lost or damaged while located on your premises except to the extent such loss or damage is caused by us.

If our Equipment is no longer required, or if you damage or interfere with our Equipment, then we may remove it from your premises.

Any SIMcard we issue to you will remain our property.

4.4 **Use of Services:** You will:

- not use the Services in any way which is unlawful;
- not use the Services in any way which could interfere with or damage our Network, any other Network Operator's network, or another customer's enjoyment of our services.
- give us and our third party suppliers such access to your premises as is reasonably necessary to enable us or our third party suppliers to ensure Services are being used correctly, fix any fault with the Services or implement any change of technology;
- follow our and our third party suppliers' reasonable instructions about the use of the Services;
- keep any password, PIN or security code we give you confidential, and update it in accordance with prudent security practices;
- only use the Services for the purpose(s) for which they are provided;
- not use or install any device and/or hardware in connection with the Services which masks or in any way alters the true origin or termination of any call or other transmission; and
- only use the Services for your own internal business requirements and not sell, rebill or otherwise provide any of the Services to anyone else without our prior written consent. For the avoidance of doubt, use of the Services by your authorised organisations for your internal business requirements is permitted under this subclause.

4.5 **Third Parties:** We will take reasonable precautions to preserve security although we are not responsible for ensuring that the Services



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cannot be misused by you or a third party. You are responsible for anyone who uses the Services (whether authorised by you or not), except to the extent you can establish such use was not authorised by you or by anyone you control, and was not as a result of your act or omission or your failure to take reasonable care.

5. CHARGES, INVOICING AND PAYMENT

5.1 **Responsibility for Charges:** You will pay, and are responsible for, the Charges for the Services and/or Products that we provide in accordance with the Agreement, irrespective of who ultimately uses them.

5.2 **GST:** All Charges exclude GST unless otherwise indicated.

5.3 **Invoices:** The Charges will apply from the beginning of the relevant Service Term. We will invoice you at approximately monthly intervals for the Services and/or Products we provide to you. Charges may be invoiced in advance or arrears. We will not invoice you for any Charges more than 90 days after the Services or Products were provided.

5.4 **No set-off, counterclaim or deduction:** Subject to clause 6.1, you will pay each invoice by the Payment Due Date without set-off, counterclaim or deduction, and in accordance with the terms (if any) set out in the invoice.

5.5 **Unpaid amounts:** If any invoiced amount (other than an amount which is disputed in accordance with clause 6.1) remains unpaid after the Payment Due Date we may charge you a Late Payment Fee and, if we spend money on collecting overdue amounts from you, then you will reimburse us for our reasonable costs.

5.6 **Part payment:** Part payment of your invoice will not amount to a full and final settlement unless we have agreed to this in writing. If the amount we receive from you on any date is less than the total amount owed to us by you, we may apply that amount in or towards payment of any amounts owed to us (including under or in connection with any Product or Service) in such order as we may determine.

5.7 **Additional charges:** If we provide you with additional services such as technical or administration support (including providing paper invoices, service suspension, call barring, redirection, or fixing faults that are not faults on our Services) we may charge you for these.

6. DISPUTED INVOICES

6.1 **Notice:** If you think there is a mistake in an invoice, and you let us know in writing prior to the Payment Due Date, you may withhold payment of the disputed part of the amount payable. You must pay any undisputed amount by the Payment Due Date.

6.2 **Dispute:** You must notify us within 90 days of the invoice date if you dispute any Charge. After this date you will not be entitled to dispute the Charge or make any claims against us in relation to the Charge.

6.3 **Response procedure:** If there has been a mistake and you have notified us in accordance with clause 6.2, we will issue a credit note or adjust your next invoice as soon as reasonably practicable. If we do

not agree that there has been a mistake, you can escalate the matter in accordance with clause 20.

7. SERVICE AND PRICING CHANGES

7.1 **Allowed Changes:** We may change a Service or the Charges for a Service or end the availability of the Service, without notice, where we reasonably believe such a change will have no detrimental effect on you. We will use reasonable efforts to notify you of such a change where it is practicable for us to do so.

7.2 **Other Changes:** We may also change a Service or the Charges for a Service or end the availability of a Service:

- (a) to comply with, or respond to a change in, applicable law or regulation;
- (b) to respond to a change imposed because of action or change made by a third party supplier (including supplier price changes, and changes by a Network Operator);
- (c) because the Services are no longer viable or are to be withdrawn from general availability sale by us;
- (d) because any technology, system, process or Equipment or input used to provide the Services becomes obsolete or beyond economic use or support; or
- (e) for any reason during the Extended Term. We may also change these Business Terms during the Extended Term for any reason.

7.3 **Notice of change:** We will give you at least 20 Business Days' notice prior to a change under clause 7.2 except where it is not practicable for us to do so, in which case we will provide you as much notice as reasonably practicable.

7.4 **Right to terminate:** If a change under clause 7.1 or 7.2 will cause you detriment you may terminate the affected Service by giving notice to us. This right must be exercised within 20 Business Days' of the change taking effect. Early Termination Charges will not apply where you terminate under this clause. We will provide to you a pro-rata refund of any prepaid Charges in respect of any Service terminated by you under this clause that were unused at the date of termination.

7.5 **Portals:** Where we make an electronic means available (a **Portal**) to add, remove or vary Services, changes made through that Portal will vary the Agreement as appropriate. We will provide you with one or more administrative account and password for use by your employees or other personnel that you nominate in writing (**Administrators**). Those Administrators will be provided with the ability to:

- (a) order new, and terminate existing, Services;
- (b) establish other, remove or replace Administrators; and
- (c) establish and remove other users with varying levels of authorisations to bind you, including the acceptance of additional terms and the addition/removal of, and other changes to, the Services.



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We are entitled to rely on the authenticity and authority of anyone using usernames and passwords that we have provided to you or that have been established by your Administrators. You will ensure that all such persons maintain the security of their log-in details and passwords. We may process actions or requests occurring on your account via a Portal without further enquiry and you will be bound by all such actions or requests.

8. CREDIT ARRANGEMENTS

- 8.1 We may pass on your information to credit reporting organisations so that they can run credit checks on our behalf at any time. We may also let those organisations know if you have not paid our Charges. At any time those organisations may pass on to us information about you that they hold. We will use that information to make decisions about providing or continuing to provide you with Services. Those organisations may keep any information about you that we have passed on to them and use it for the purposes of their businesses, which may include supplying it to other entities that use their services. We may suspend or stop providing Services to you if we receive an unsatisfactory credit check about you.

9. PHONE NUMBERS, ADDRESSES AND OTHER CODES

- 9.1 **Allocation and ownership:** Depending on the Services you acquire from us, we may allocate Phone Numbers, electronic addresses, and other codes to you, as may other Telecommunications Service Providers. These do not belong to you.
- 9.2 **Change:** We may be required by law, under contracts with Network Operators or for other reasons outside of our control, to change your Phone Number(s), electronic address(es) or code(s). We will use reasonable endeavours to give you notice of any change required. We will not be liable for any costs which you, or anyone else, may incur as a result of such change.
- 9.3 **Emergency services:** Your Phone Number may be displayed to emergency service providers and to us.

10. SUSPENSION OF SERVICES

- 10.1 **Suspension:** We may suspend the provision of Services at any time if we believe that you are causing, or are likely to cause, interference or interruption to the Network or our customers. We will always use reasonable endeavours to give you at least five Business Days' notice of our intention to suspend, however it will not always be possible for us to do so.

11. TERMINATION

- 11.1 **Termination after end of Service Initial Terms:** Either party may terminate a Service if the applicable Service Initial Term has expired by giving the other party 20 Business Days' written notice.
- 11.2 **Your termination for convenience before end of Service Initial Terms:** Subject to clause 13.2, you may at any time before the end of the relevant Service Initial Term or the Agreement terminate any Service for convenience by giving 20 Business Days' written notice to us, provided that you pay any applicable Early Termination Charges. You

must pay our Charges through the 20 Business Day notice period, even if termination takes effect after the end of any applicable Service Initial Term.

- 11.3 **Material breach:** If either party is in material breach of the Agreement, the other party may give written notice to remedy the breach. If the breach is incapable of remedy or is not remedied within 20 Business Days of the notice, then the party not in breach may give written notice to the other party immediately terminating the Agreement.
- 11.4 **Fraud:** Either party may terminate the Agreement immediately if they reasonably suspect fraud by the other party or on the other party's behalf.
- 11.5 **Insolvency events:** If either party (or any of its holding companies):
- (a) goes into liquidation, bankruptcy, administration or receivership or enters into a compromise with its creditors (or it appears that any of these events is likely to happen);
 - (b) has a receiver or statutory manager appointed over any or all of its assets; or
 - (c) is removed from the Companies Register (other than as a result of a solvent amalgamation), is dissolved or dies;

then the other party may give written notice immediately terminating the Agreement.

12. PORTING

- 12.1 If you Port all of the Phone Numbers to another Telecommunications Service Provider, this will constitute termination of the applicable Services and should such termination take place before the end of the applicable Service Initial Term, you will be liable to pay any applicable Early Termination Charges as though you had exercised your right to terminate for convenience.

13. CONSEQUENCES OF TERMINATION

- 13.1 **Consequences:** When the Agreement or a Service is terminated:
- (a) we will cease to provide the relevant Service(s) to you and any connection to the Network relating to the terminated Service(s) will be disconnected so that you are no longer able to receive the relevant Service(s);
 - (b) clauses 11 and 13 to 22 (inclusive) together with the other provisions of the Agreement which are required to give effect to those clauses or which naturally survive, will remain in effect;
 - (c) each party must immediately return to the other any information, equipment or any other item which is in its possession and which belongs to the other party and, in the case of cessation of particular Services, such information, equipment or items relating to the relevant Services;
 - (d) we may access your premises to remove our Equipment (subject to clause 3.4). If we are unable to gain access we may invoice you and you will pay the standard replacement charge for the Equipment in question;



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- (e) we will, within a reasonable time of receiving written notice from you, provide such information and assistance as you reasonably require for a period of not more than 20 Business Days to allow you to make an orderly transition of all or any of the Services and Products to you or any nominated alternative supplier, provided that such work will be charged at our standard rates; and
- (f) you will reimburse us for reasonable costs (if any) incurred by us in removing our Equipment and decommissioning the Services. We will not require you to reimburse us under this clause 13.1(f) if any Service or the Agreement is terminated before the expiry of the applicable Service Initial Term by you under clause 7.4 (right to terminate), clause 11.3 (our material breach), 11.4 (our fraud) or clause 11.5 (our insolvency).
- 13.2 **Early Termination Charges payable:** If any Service or the Agreement is terminated before expiry of the applicable Service Initial Term:
- (a) by you under clause 11.2 (termination for convenience); or
- (b) by us under clause 11.3 (your material breach), 11.4 (your fraud) or clause 11.5 (your insolvency),
- then we may require you to pay Early Termination Charges. The parties acknowledge that the Early Termination Charges are a reasonable and proportionate adjustment of the Charges if the Agreement or the relevant Service is terminated in the circumstances contemplated above to protect our legitimate interests including recouping costs incurred to be able to provide the Service and to reflect the fact that the pricing and payment profile has been structured based on the Service Initial Term.
- 13.3 **Early Termination Charges not payable:** We will not require you to pay us Early Termination Charges if any Service or the Agreement is terminated before the expiry of the applicable Service Initial Term by you under clause 7.4 (right to terminate), clause 11.3 (our material breach), 11.4 (our fraud) or clause 11.5 (our insolvency).
- 13.4 **No prejudice:** Termination and the rights set out in this clause 13 are without prejudice to any other rights, remedies or obligations either party may have under the Agreement or at law.
14. **INFORMATION AND CONFIDENTIALITY**
- 14.1 **Personal Information:** We collect, use and disclose Personal Information about you, your Users or other representatives in accordance with:
- (a) the Privacy Act 2020;
- (b) the Telecommunications Information Privacy Code 2020;
- (c) our Privacy Policy; and
- (d) the Agreement and any applicable Statement of Work.
- 14.2 **Privacy Policy:** For the purposes of the Agreement, references to 'you' (and similar words) in the Privacy Policy will be construed as references to your Users or other representatives.
- 14.3 **User consent:** You confirm that your Users and representatives consent to and authorise our collection and use of their Personal Information in accordance with clause 14.1.
- 14.4 **Data Sovereignty:** You acknowledge that we may use products and services located in non-New Zealand jurisdictions. In doing so we may transfer, store and/or host your data (which may include customer and Personal Information) with third parties who may be located outside of New Zealand. We will ensure that those third parties agree to use Personal Information only as required to perform their functions on our behalf, or as otherwise authorised by you in writing or via a Portal.
- 14.5 **Confidentiality:** The Agreement and any information that has been provided under the Agreement by you or us that is not publicly available, is confidential. That information will not be disclosed by you or us, except:
- (a) as required by law;
- (b) as is necessary to satisfy the requirements of any regulatory agency or stock exchange;
- (c) where the other party otherwise agrees in writing;
- (d) as is necessary or provided for under the Agreement; or
- (e) to your or our professional advisors and consultants.
- 14.6 **Security of data:** You acknowledge that unless otherwise provided for under any Service you elect to take from us (as specified in the relevant Service Description), we are unable to exercise control over, and make no representations or warranties concerning, the security or content of data or information passing over the Network, any systems operated by third parties and the internet.
15. **INTELLECTUAL PROPERTY RIGHTS**
- 15.1 **Our intellectual property:** You acknowledge that all rights to intellectual property contained in or relating to the Services and the Equipment (including any improvements or changes to any Service or to the Equipment) (**Intellectual Property**) belong to us or to our licensors.
- 15.2 **Licence:** We license you to use Intellectual Property that we provide to you in connection with the provision of the Services on a non-exclusive and non-transferable basis for the Service Term, for the purposes set out in the Agreement, in accordance with:
- (a) the terms of the Agreement; and
- (b) in respect of any software that we provide to you in connection with the Services, any terms (including any end user licence agreement) upon which the software is ordinarily licensed or which we notify to you.
- 15.3 **Software:** If we provide you with any software in connection with the provision of the Services, you must not copy, modify or reverse assemble the



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- software.
- 15.4 **Warranty as to third party infringement:** Each party warrants to the other that any materials proprietary to a party, and provided to the other party for the purposes of the Agreement, will not infringe the intellectual property rights of any third party, provided that the other party:
- uses such materials in accordance with the terms of the Agreement (including the licence set out in clause 15.2) and any terms notified in writing by the disclosing party; and
 - does not in any way modify or alter the materials, other than as permitted under the Agreement.
16. **PRODUCTS**
- 16.1 **Delivery:** We will deliver Products purchased in an Order Form as soon as reasonably practicable. We are not responsible for any delays in delivery caused by any third party, including the supplier of the Products.
- 16.2 **Claim of damaged Products and manufacturers' warranties:** Without limiting the terms of any manufacturers' warranty that we pass the benefit of to you, where you receive Products from us that are found to be damaged other than as a result of your misuse or lack of reasonable care:
- you must tell us, in writing, the nature of the damage, and return the damaged Products as soon as reasonably practicable, but no later than 10 Business Days from the receipt of the Products;
 - you must also provide us with copies of any invoice and delivery documents that accompanied the Products; and
 - we may decline any claim which you have not reported to us in writing within 10 Business Days as set out in clause 16.2 (a) or which is not complete.
- 16.3 **Accepted claim:** If we accept your claim under clause 16.2, we may, at our option:
- replace the Products;
 - refund the relevant Charge; or
 - provide a credit against the relevant Charge where you are yet to pay.
- 16.4 **Transfer of risk and title:** Any Products you order from us are your responsibility from the time they are delivered to you or on your receipt. Ownership in a Product does not pass to you until you have paid all Charges for the Product and any other amounts payable in relation to the Product.
- 16.5 **Warranty:** When we provide Products to you, they will (unless otherwise specified) be suitable for connection to our Network. Where permitted we will pass on to you the full benefit of any manufacturer's warranty in respect of Products you purchase from us.
17. **THIRD PARTY SERVICES**
- 17.1 You will agree to such end user licences or other terms as are provided by any third-party supplier.
- If you do not accept the third-party supplier's terms, you will notify us as soon as possible and we will use all reasonable endeavours to terminate the service. If we are unable to terminate the service without incurring cost, this will be treated as termination during the Service Initial Term and any applicable Early Termination Charges will be charged, notwithstanding that the Service Initial Term may not have commenced.
18. **NO ADDITIONAL TERMS**
- 18.1 **Exclusions:** All warranties, terms, guarantees and conditions that are not expressly set out in the Agreement are excluded to the extent permitted by law.
- 18.2 **Fair Trading Act 1986 (FTA) and Consumer Guarantees Act 1993 (CGA):** For the purposes of section 5D of the FTA and section 43 of the CGA, the parties acknowledge and agree that:
- the Services, Products and Equipment (as applicable) that we provide to you under the Agreement are being provided and acquired in trade; and
 - to the extent permitted by law, in respect of all matters covered by the Agreement, the parties are contracting out of the CGA and sections 9, 12A and 13 of the FTA.
19. **LIABILITY – EXCLUSION AND LIMITATION**
- 19.1 **Exclusion of liability:** Subject to clause 19.3, and except to the extent expressly stated otherwise in the Agreement in no event will either party be liable under or in connection with the Agreement (whether in contract, tort (including negligence) or otherwise) for any:
- loss you suffer resulting from lost data;
 - loss of profit, revenue, anticipated savings or goodwill; or
 - indirect or consequential losses,
- regardless of whether such losses were contemplated.
- 19.2 **Limitation on liability:** Subject to clause 19.3, the maximum liability of any party for claims under or in connection with the Agreement (whether in contract, tort (including negligence) or otherwise) relating to any event(s) that occur in a Contract Year shall not exceed 100% of the total Charges that you are or become liable to pay us under the Agreement in that Contract Year.
- 19.3 **Exceptions:** Nothing in the Agreement shall limit either party's liability (as applicable):
- to pay the Charges or any Early Termination Charges which are payable in accordance with the Agreement;
 - for a breach of clause 14.5 (confidentiality);
 - for a breach of clause 15.4 (warranty as to third party infringement);
 - for any loss or damage which is finally judicially determined to have resulted from that party's fraud or wilful misconduct; or
 - for death or personal injury which is finally judicially determined to have resulted from an act or omission of that party.



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19.4 **Network Operators and other suppliers not liable:** None of our officers, employees or contractors, nor any other Network Operator, any third party supplier (including their officers, employees and contractors), or any other provider of an input to the Services will be liable to you or anyone else for any claims, costs, damages, losses or other liabilities of any kind arising in any way from the Services we provide or from your use of those Services and our Network, including (without limitation) your access to and use of any service provider's site or Network Operator's networks. The benefits of this clause are intended to extend to Network Operators, agents, suppliers and providers and to be enforced by them under the Contract and Commercial Law Act 2017 Part 2, Subpart 1.

20. DISPUTES

20.1 **Dispute procedure:** If a dispute arises out of or in connection with the Agreement, neither you nor we will commence court proceedings (except where urgent interlocutory relief is required) until this clause 20 has been complied with.

20.2 **Notice of dispute:** If either party has a dispute with the other party which relates to, or arises from the Agreement, it will give the other party written notice of the dispute.

20.3 **Management resolution:** Upon receipt of such notice, senior managers from each party will meet within 10 Business Days of written notice being provided and in good faith attempt to resolve the dispute within a further 10 Business Day period.

21. ENTIRE AGREEMENT AND VARIATIONS

21.1 **Entire agreement:** The Agreement supersedes all written agreements that you may have had with us regarding the subject matter of the Agreement and represents the entire agreement between the parties regarding such subject matter.

21.2 **No variation:** Except as expressly provided in the Agreement, no variation or waiver of any provision of the Agreement will be recognised or binding unless it is in writing and signed by both parties.

22. FORCE MAJEURE

22.1 **Liability:** Neither party will be liable to the other party for any failure to perform its obligations under the Agreement during the time and to the extent that such performance is prevented by reason of a Force Majeure Event.

22.2 **Notice:** The party seeking to rely on this clause will notify the other party as soon as practicable after the Force Majeure Event occurs and use its best endeavours to provide the other party with information regarding the extent of the affected party's inability to perform and an estimate of the time likely to be required to overcome the Force Majeure Event.

22.3 **Mitigation:** The affected party will use commercially reasonable endeavours to remedy or mitigate the effect of the Force Majeure Event and to complete its obligations under the Agreement as far as reasonably practicable.

22.4 **Charges:** You will not be required to pay any Charges for any Services to the extent that such Services are not provided by us due to a Force Majeure Event.

23. TECHNOLOGY:

Without limiting any of our other rights under the Agreement, we may, from time to time, change the technology or other means by which we provide any of the Services. We are not required to give you notice of any change to the technology or other means that we use to provide any of the Services if we are able to continue delivering the Services to you in accordance with the Agreement. If a change to the technology or other means that we use to provide any of the Services has a material adverse effect on you, clause 7.4 will apply.

24. GENERAL

24.1 **Notices:** Any notice by one party to the other under the Agreement must be delivered, posted or emailed to the following address. A party can change its address for notices by advising the other party in writing.

OUR ADDRESS FOR NOTICES

Vodafone New Zealand Limited
74 Taharoto Road
Takapuna
Auckland 0622
Email: legal.notices@vodafone.nz
Attention: Legal Director

YOUR ADDRESS FOR NOTICES

The address specified on the Order Form or any other address you advise us in writing (including via a Portal).

24.2 **Assignment:** Subject to our rights under clauses 24.3 and 24.4, neither party may assign any of its rights and obligations under the Agreement to any other person without the other party's prior written consent (such consent not to be unreasonably withheld).

24.3 **Vodafone assignment:** We may assign our rights and obligations under the Agreement to a Related Company as that term is defined in the Companies Act 1993 without your consent.

24.4 **Subcontracting:** We may subcontract any or all of our obligations under the Agreement without your consent, but we will remain ultimately responsible to you for carrying out those obligations.

24.5 Compliance with policies and law:

(a) Each party will comply with the other's pre-notified and reasonable health and safety policies, as amended from time to time, when on the other party's premises. In addition, each party will also comply with the Health and Safety at Work Act 2015, including all regulations and codes of practices made thereunder.

(b) We will comply with the Vodafone Code of Conduct which includes commitments regarding health and safety, managing our impact on the environment and investing in society. We also expect our employees, contractors and suppliers to meet these commitments. The Vodafone Code of Conduct (as amended from time to time) can be found at <https://www.vodafone.com/our-purpose/reporting-centre/code-of-conduct>.



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- (c) Each party will comply with the Applicable Laws relevant to the Agreement. In respect of Applicable Law in relation to sanctions and trade controls each party has an obligation to notify the other in respect of a breach of such laws or a change of status. In such circumstances, each party shall have the right to suspend the Services or terminate the Agreement with immediate effect and without liability.
- 24.6 **No waiver or delay:** Except as otherwise provided in the Agreement, if either party delays or fails to enforce any of its rights or remedies under the Agreement, this will not constitute a waiver by that party of that or any other right or remedy available to it.
- 24.7 **Severability:** If the Agreement or any provision of the Agreement is held to be illegal, invalid, unenforceable or of no effect, then, to the extent permitted by law, the provision or provisions giving rise to such illegality, invalidity, unenforceability or lack of effect will be severed from the Agreement and the remaining provisions of the Agreement will remain in full force and effect.
- 24.8 **Governing law:** The laws of New Zealand govern the Agreement. The parties agree to submit to the exclusive jurisdiction of the courts of New Zealand.
- 25. INTERPRETATION**
- 25.1 **Meaning:** The terms defined in the Order Form and clause 25.2 below have the same meaning throughout the Agreement. References to the singular include the plural and vice versa.
- 25.2 **Definitions:** In the Agreement, unless the context indicates otherwise:
- Administrator** has the meaning set out in clause 7.5;
- Agreement** means the documents referred to in clause 1.2;
- Applicable Law** means law, regulation, binding code of practice, rule or requirement of any relevant government or governmental agency, professional or regulatory authority, each as relevant to (i) Vodafone in the provision of Services and or (ii) you in the receipt of Services or the carrying out of your business. Such laws explicitly include sanctions and export controls restrictive measures;
- Authorised Persons** has the meaning set out in clause 1.3;
- Business Day** means any day other than a Saturday, Sunday or public holiday in Auckland or Wellington;
- Business Terms** means these terms, and Legal Terms and Legal Schedule shall have the same meaning.
- Charges** means:
- (a) the charges for the Services as set out or referred to in the applicable Order Form or Statement of Work;
- (b) the charges for the Products (if applicable), plus any freight and delivery costs not included in the listed price, as set out or referred to in the applicable Order Form or Statement of Work;
- (c) any taxes (excluding GST), levies, fees or other government charges relating to our Services, and
- (d) any additional charges payable by you under the Agreement,
- in each case as amended in accordance with the Agreement from time to time;
- Connection** means a voice and/or data mobile connection (as applicable) to the Network by an appropriately configured SIMcard;
- Contract Year** means a year starting when we start delivering the Services to you, and every anniversary thereafter;
- Early Termination Charges** means any early termination charges set out in the Order Form or on our Website at the effective date of termination;
- Equipment** means any equipment (including software), owned by us or our suppliers, that we provide to you in connection with the provision of Services;
- Extended Term** has the meaning set out in clause 2.3;
- Force Majeure Event** means any event or circumstances beyond the reasonable control of the party claiming force majeure, including any act of God, fire, flood, storm, earthquake or any natural disaster, any act of a public enemy, terrorism, sabotage, embargo, malicious damage, riot or war, epidemic or pandemic, any Government intervention and any defect in or failure of any third party electricity network or infrastructure, but does not include lack of funds for any reason;
- GST** means goods and services tax chargeable in accordance with the Goods and Services Tax Act 1985, as amended from time to time;
- Late Payment Fee** means the fee for late payment published on our Website from time to time. Details of the Late Payment Fee can be found here: <http://www.vodafone.co.nz/help/bill-payment/late-payment-fee/>;
- Network** means our telecommunications networks;
- Network Operator** means (a) any entity with whom we have an interconnection agreement or arrangement (directly or indirectly) to provide for the transfer of your generated or destined data or voice communications between the Network and any telecommunications network operated by or on behalf of that entity or (b) an arrangement to resell wholesale services;
- Order Form** means the master services agreement or signup/order form issued by us, or voice verification agreement conducted by us, through which you order Products and/or Services and includes, where you request Services and/or Products via a Portal, the electronic form you submit to us via that Portal;
- Payment Due Date** means the date set out in the Order Form or, where none is specified, as set out in the invoice;
- Personal Information** means personal information (as that term is defined in the Privacy Act 2020) and Telecommunications Information;



MASTER SERVICES AGREEMENT BUSINESS TERMS

Phone Number means a phone number which is either allocated to you by us or which you have Ported to us;

Port means to transfer a Phone Number from one Telecommunications Service Provider to another according to the approved industry process (and words such as Porting, Ported and Porting Process will be construed accordingly);

Privacy Policy means our Privacy Policy as amended in accordance with best industry practice, available on our Website at vodafone.co.nz/legal/policy/privacy;

Products mean devices, hardware and/or accessories provided by us except as expressly stated otherwise in the Agreement;

Regulatory Event means any legislative or regulatory change (including, any determination, direction or decision by a regulatory authority, or the introduction of or change to any regulations, reference offer or undertaking) that directly or indirectly has the effect of: altering the terms of the Agreement; making the operation of the Agreement impracticable; materially altering the burden (financial or otherwise) of us providing Services under the Agreement; making us incapable of performing the Agreement; or causing us (voluntarily or otherwise) to materially alter our operations or structure;

Services mean the services which we provide to you from time to time as set out in the Order Form, Service and Product Descriptions and/or any Statements of Work;

Service and Product Descriptions mean the descriptions relating to the Services and Products provided in or with the Order Form or on our Website;

Service Initial Term means, in respect of a Service, the period specified as such on the Order Form;

Service Term has the meaning set out in clause 2.3;

Statement of Work means any statement of work entered into between the parties from time to time setting out additional Services to be provided under the Agreement;

Telecommunications Information means information about an identifiable individual which is subscriber information, traffic information or the content of a telecommunication (as those terms are defined in the Telecommunications Information Privacy Code 2020);

Telecommunications Service Provider means a provider of telecommunications services to the public in New Zealand;

User means an individual end user of a Product and/or the Services;

We or us means Vodafone New Zealand Limited, 74 Taharoto Road, Takapuna, Auckland 0622, Auckland and our has a corresponding meaning;

Website means our website at www.vodafone.co.nz;

Website Terms means the terms and conditions that are set out on our Website; and

You has the meaning set out in the Order Form and **your** has a corresponding meaning.

25.3 In interpreting the Agreement, references to either party include its respective successors in title and permitted assigns and references to "includes" or "including" do not imply any limitation.