

General Terms and Conditions

Version 10.7.20

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Screwloose IT

1 Introduction

- 1.1 A binding agreement (Agreement) is formed when you apply to acquire services (*the Service*) from Screwloose (*us, we, our*) and we accept your application (Application).
- 1.2 The Agreement comprises:
- the Application (whether in writing or by telephone);
 - the Service Description;
 - the Critical Information Summary (where applicable);
 - these General Terms and Conditions;
 - any separate maintenance, support or hosting contract (Separate Contract) we agree with you; and
 - any documents or information displayed on our website when linked or referenced by any of the above (Imported Terms).
- 1.3 If there is an inconsistency between parts of the Agreement, it will be resolved in the following priority:
- the Service Description;
 - the Critical Information Summary;
 - any Separate Contract;
 - these General Terms and Conditions;
 - Imported Terms; and
 - your Application.
- 1.4 You are entitled to negotiate these General Terms and Conditions with us and they will take effect subject to any changes stated in the Application and agreed in writing at the time we accept it.
- 1.5 The Agreement may not be assigned by you without our prior written consent.
- 1.6 In the Agreement, unless the context requires otherwise:
- headings are for convenience only and do not affect interpretation;
 - the singular includes the plural;
 - reference to persons includes other legal entities;
 - references to laws include those laws as amended, consolidated, re-enacted or replaced from time to time;
 - all amounts of money are expressed exclusive of GST.

2. Term

- 2.1 The Agreement commences when
- the Application is accepted by us in writing; and
 - you have made any initial payment required.
- 2.2 Unless the Application specifies a different term, the Agreement will continue until:
- terminated by either party 30 days before the end of the term specified in the Service Description;
 - by written agreement; or
 - by us upon notice at any other time under clause 2.4 or any other clause of the agreement.
- 2.3 If the Application specifies a fixed term, we will continue to supply the Service on a month-to-month basis under this agreement and no new agreement will have been created.
- 2.4 We may terminate the Agreement at any time in our absolute discretion if:
- we determine that for technical or other reasons we will be unable to provision or connect the Service within a reasonable time after accepting the Application;
 - you or anyone connected with you have been involved in fraud or other illegal conduct in relation to the Service;
 - you use the Service in a manner not permitted by the Agreement;
 - we learn of a material misrepresentation in your Application;
 - you do not use the Service for a period of 6 months;
 - you vacate any premises to which the Service is provided;
 - you commit a material breach of the Agreement which is incapable of being corrected;
 - you commit a material breach of the Agreement which is capable of being corrected but fail to do so within the period of any notice from us;
 - we supply the Service using a third-party network or services and that third-party ceases to supply its services to us.

3 Changes

3.1 We may change the Agreement:

- a. by agreement with you;
- b. when the change does not adversely affect you and we have given you prior notice of the change;
- c. when the change is adverse to you and we have given you at least 30 days' prior notice of the change;
- d. where the change is in relation to Charges for placing a call that terminates on an international fixed or wireless telephone network; and
- e. where the change is to introduce or vary Charge or to pass on a tax or levy imposed by law and we have given you prior notice of the change.

3.2 We may withdraw any plans, packages or offers at any time by giving notice to you, but such withdrawal will only take effect from the end of any fixed term.

3.3 Notice of a change to the Agreement may be given by us:

- a. by email to the address stated in your Application (or supplied to us at any other time);
- b. together with or as part of your bill; or
- c. otherwise in writing.

3.4 Changes to these General Terms and Conditions and the Service Description will be made available online and you should check our website regularly.

3.5 If we change the Agreement under this clause, you may terminate the Agreement within 30 days of the date of notice without incurring any Charges other than those applicable without the change to the date this Agreement ends.

3.6 Your ongoing use of the Service after the date of a change or on the expiry of the period stated above is deemed acceptance of the change.

4 Your Application

4.1 You warrant that:

- a. all the information you have given to us in your Application is true and correct;
- b. if you have applied for the Service on the basis of any promotion or advertisement, that you meet the eligibility criteria;
- c. you are not applying for the Service for the primary purpose of personal or domestic use;
- d. you do not intend to, and will not, use the Service for internet content aggregation;

- e. you have not made the Application directly or indirectly on behalf of an internet data centre or call centre and will not use the Service in connection with the operation of an internet data centre;
- f. you do not intend to, and will not, re-sell the Service.

4.2 We are entitled to refuse your Application or accept it subject to conditions if:

- a. there is a technical limitation to our ability to provide the Service to you or in your location, including where there are network capacity restraints;
- b. where you have not completed or not properly completed the Application;
- c. where you have not provided us with documents or information we reasonably require;
- d. you do not meet our credit assessment criteria; or
- e. you do not accept these General Terms and Conditions and we are unable to negotiate different terms.

4.3 By applying for the Service, you authorise us to communicate with credit referencing bodies/associations about your credit history at any time and from time to time, including providing them with the details you have provided to us.

4.4 We may pay commission to brokers acting on our behalf who are involved in your Application.

5 Privacy

5.1 In the course of making your Application and in connection with the provision of the Service to you, we may obtain private information about you, some of which is required to be collected by law.

5.2 You consent to the collection and disclosure of your personal information from or to:

- a. any credit providers or credit reporting agencies to use the information for all purposes permitted by the *Privacy Act 1988*, including to obtain a credit report about you or your business, maintaining a credit information file about you, or notifying a default by you;
- b. law enforcement and regulatory agencies;
- c. to conduct ongoing credit management of your account with us;
- d. our professional advisors;
- e. upstream suppliers, to use the information in connection with the supply of the Services; and

- f. any person who supplies us with your username(s) or password(s).
- 5.3 You consent to us contacting you from time to time about our services, news, promotions and offers, including from related or affiliated organisations. You can withdraw this consent at any time by contacting us.
- 5.4 You consent to us contacting you through any available contact methods.

6 The Service

- 6.1 We will supply the Service as described in the Service Description, subject to this Agreement.
- 6.2 You are solely responsible for identifying the Service you require and that the Service meets those requirements.
- 6.3 You acknowledge that the Service might be dependent on the need to order, install and configure equipment and make arrangements with third party suppliers, all of which may impact the date on which the Service is supplied.
- 6.4 If we have given you a date on which the Service will be supplied it is an estimate only, not a guarantee.
- 6.5 We choose the method of provisioning and supplying the Service and we may at any time and from time to time use and vary a combination of infrastructure and services of our own or provided by third parties.
- 6.6 You acknowledge that the Service is technology-based and that its performance is dependent on many different factors (some outside our control), and accordingly we do not guarantee that:
- a. the Service will meet any particular standard, generally or at all times,
 - b. the Service will be free of faults or uninterrupted;
 - c. your Application can or will be accepted;
 - d. any data will be transmitted or received correctly or within any particular time.
- 6.7 You are solely responsible for:
- a. selecting;
 - b. obtaining;
 - c. installing;
 - d. operating;
 - e. upgrading;
 - f. keeping in good working order;
 - g. obtaining licences and permission to operate;
 - h. maintaining power supply to; and
- i. operating within an appropriate physical environment,
- all software and hardware used in connection with the Service (including equipment we provide) unless otherwise agreed in writing or provided by law.
- 6.8 You acknowledge that it is your sole responsibility to back-up and secure data (including email) that is connected to or supplied with the Service.
- 6.9 You must promptly arrange to give us safe access to your premises when asked in order to provision, connect, supply, install, maintain, support, upgrade, repair or remove the Service. You must also, if asked, arrange that a suitably qualified representative of yours is available onsite to assist. You acknowledge that you may incur additional Charges and that connection, service and repair times may be impacted by a failure to comply with this clause 6.8.
- 6.10 You must direct all queries regarding faults/outages of the Service to our help desk by telephone (1300 245 575) or email (support@screwlooseit.com.au).
- 6.11 Before reporting a fault/outage, you are required to carry out isolation testing on the Service as follows:
- a. restart your NBN Gateway/modem/router;
 - b. restart the NBN Network Terminating Device.
- 6.12 You must not direct enquiries to, or engage, third parties such as NBN Co or other Carriers. If you do, you must pay for all costs incurred by such third parties. There may be circumstances where a fault/outage is required to be escalated to third parties such as NBN Co or another network provider. You must pay for all costs incurred as a result of such escalation if the third party determines that the fault/outage is caused by you or your equipment.
- 6.13 Support for faults/outages is provided during normal business hours (9:00am - 5:30pm Monday-Friday excluding public holidays). Subject to availability and urgency, support may be provided outside of these hours. In the event that you request support at your premises outside of normal business hours and no fault is found or reproduced, you will be required to pay our service rates of \$150p/h (minimum charge 1 hour).
- 6.14 We do not guarantee that any Service (or part of any Service) is capable of being transferred to another provider. If such a transfer occurs (or if you continue to use the Service after such a transfer or if the Service is ceased by us) then you are responsible for all:
- a. applicable Additional Charges;
 - b. charges imposed by your new provider or by regulatory agencies;
 - c. Charges accrued up to and including the date of transfer; and

- d. (if applicable) ongoing usage Charges, by analogy with the prior Agreement.

7 Usage

7.1 Charges will be incurred whenever the Service is used, whether authorised by you or not (unless arising from our mistake) and you acknowledge that:

- a. you are responsible for the security of your username(s) and password(s);
- b. you are advised to ensure that you have adopted adequate security measures to prevent unauthorised access to your password(s) and username(s) and that your connections to the Service cannot be accessed by third parties;
- c. we are not able to monitor or control the use or security of your computers, telephone handsets and other devices connected to the Service; and
- d. we do not monitor the usage of the Service to assess whether it is being used with your authority.

7.2 You are not permitted to:

- a. aggregate or re-sell the Service;
- b. use the Service in a data centre or outbound call centre (with automatic or predictive dialers); or
- c. otherwise permit a third party to use any part of the Service without written permission from us.

7.3 You must ensure that anyone you authorise to use the Service complies with your obligations under this clause.

7.4 To the greatest extent permitted by law, you use the Service at your sole risk and responsibility, including:

- a. calls made and messages sent;
- b. sites and content accessed;
- c. content downloaded (and the effect it may have on your equipment or the Service);
- d. products and services purchased;
- e. information published or otherwise provided to others through the Service;
- f. installation and use of software and hardware (whether provided by us or not) to which the Service is connected or through which it is used;
- g. the modification of any settings or data on the Service (whether instructed by us or not);
- h. the supervision of any persons under the age of 18 who use the Service; and

- i. the lawfulness of your use of the Service and while using the Service.

7.5 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* our liability is limited to resupplying, repairing or replacing the Service or equipment where it is fair and reasonable to do so.

7.6 You must inform us as soon as you become aware that you have a claim against us.

7.7 The Service is provided to you on the basis that it will be used only for the use specified in the Critical Information Summary and Service Description.

7.8 You must use the Service only for lawful purposes and activities and must comply with all laws, regulations and industry codes or practice which apply to their use.

7.9 You must not knowingly do anything or use the Service in any manner, which might:

- a. compromise the security or safety of the Service;
- b. endanger the safety or security of any person or damage any property;
- c. infringe any person's rights (including intellectual property rights);
- d. prevent or deter any other person from using the Service;
- e. transmit, communicate, access or publish any material which is unlawful, abusive, defamatory, menacing or harassing; or
- f. transmit any virus or similar.

7.10 You must not use or attempt to use the Service to hack or otherwise obtain unauthorised access to any infrastructure or content.

7.11 You must not use the Service to send unsolicited communications to anyone.

7.12 To the greatest extent permitted by law, we accept no responsibility whatsoever and you hold us harmless for:

- a. any loss or damage incurred by you due to the fault or failures of a third party's network infrastructure - and you acknowledge that the Service is provided by making use of third-party network infrastructure;
- b. any loss of anticipated profits or revenue, loss of opportunity, loss of goodwill, loss or corruption of data, aggravated or exemplary damages, consequential loss or third-party loss or damage;

- c. any loss or damage whatsoever to the extent that such loss or damage was caused by you;
- d. any delay or failure caused by an event or circumstance reasonably beyond our control, including but not limited to war (or other military action), terrorism, civil commotion, accident, emergency, natural disaster, embargo, contagion, computer virus, hacker attack, failure of the internet or default by our suppliers.

7.13 You acknowledge that, without obligation or liability whatsoever, we may:

- a. intercept communications, provide information and take other steps when required by law to do so;
- b. monitor the usage of the Service and communications sent over it to ensure compliance with the Agreement and protect the infrastructure used to supply the Service and its other users;
- c. implement traffic management measures; and
- d. scan your equipment or otherwise test the security of the Service.

8 Equipment

- 8.1 You must ensure that all your equipment by which the Service is used complies with applicable laws and standards and is used in accordance with the manufacturer's recommendations.
- 8.2 We reserve the right (without obligation or liability) to disconnect your equipment from the Service if, in our reasonable opinion, it may interfere with or disrupt the Service.
- 8.3 You acknowledge that if any of your equipment is faulty, incompatible or not updated, it may affect:
 - a. your ability to use the Service;
 - b. the quality of the Service; or
 - c. our ability to provide, or continue to provide, the Service to you.
- 8.4 If we supply equipment to you:
 - a. you must immediately notify us of any damage or suspected fault and follow our directions;
 - b. we retain title to such equipment until payment is received in full;
 - c. it may be locked and programmed to work only with the infrastructure used to provide the Service – and we are not obliged to agree to unlock it (and assume no liability whatsoever if we agree to unlock it);
 - d. it is at your sole risk while in your possession;

- e. it is deemed to have been supplied once it has been shipped and a tracking number provided to you - we are not liable for loss of equipment or delays in transit; and
- f. that supply does not result in us assuming any obligation of support or displacing or enlarging any warranty provided by the manufacturer.

8.5 You are solely responsible for identifying the equipment you require and that the equipment meets those requirements.

9 Charges, billing and payment

- 9.1 You must pay all charges in connection with the Service (*Charges*) as stated in the Critical Information Summary and as varied from time to time under this Agreement.
- 9.2 You must pay all applicable Additional Charges. www.screwloose.com.au/legal
- 9.3 You must pay for all equipment we supply at your request.
- 9.4 If you request us to provide services outside of the Service you must pay the applicable Additional Charges.
- 9.5 Without limitation to any other remedy available, you must pay our reasonable Charges to repair, rectify or modify the Service or equipment to the extent caused by:
 - a. your negligence or breach of the Agreement; and
 - b. a failure or fault in your equipment (if not supplied by us).
- 9.6 You must pay the applicable Additional Charges if we make a visit to your premises with reasonable prior notice and you fail to comply with clause 6.8.
- 9.7 We may from time to time make a special offer with terms and conditions that differ from those contained in the Critical Information Summary. If you accept such an offer, its terms take priority over the Critical Information Summary for any period specified in the offer.
- 9.8 We may bill and require payment of certain Charges as set out in the Agreement before we commence to deliver equipment or connect the Service. Typically, these are for equipment, set up and provisioning of the Service.
- 9.9 We may bill and require payment of Additional Charges before we provide the services to which they relate.
- 9.10 Unless otherwise stated in the Critical Information Summary, recurring Charges are billed in advance, and usage-based Charges are billed in arrears.

- 9.11 We will bill you monthly, commencing on the date which is one calendar month after the date we accept your order, unless otherwise specified in the Critical Information Summary. We will try to include all Charges relating to the current billing period but you acknowledge that usage-based Charges and some other Charges may not appear on your bill until up to 160 days from the date you incurred the Charge. We may bill and you must pay any minimum monthly Charge stated in the Critical Information Summary even if you have not used the Services.
- 9.12 We may ask you to make interim payments at other times if there is unusually high usage on your account, to maintain your account within any credit limit we have approved or to maintain any minimum account balance stated in the Critical Information Summary, if we have reason to be concerned about your ability to pay at any time or if permitted under another provision of the Agreement.
- 9.13 We may bill you after the Agreement has been terminated, for Charges you incurred earlier, but we will bill them within a reasonable time after termination.
- 9.14 We will send bills by email to your nominated email address and do not provide paper bills.
- 9.15 If we have taken reasonable steps to ensure you receive it, a bill remains payable even if you do not receive it because you have changed email address and not notified us or because your email mailbox is full or for any other reason not attributable to us.
- 9.16 If you ask us to re-send you a bill more than 3 months after the issue date, and that billing information is available without Charge through our website, we may Charge you an invoice copy fee for each bill you request.
- 9.17 If we find an error on a bill, we will apply an adjustment to your account and this will appear on your next bill. We will credit your account with any overpayment and you must pay any underpayment by the due date. If you no longer have an account with us, we will take reasonable steps to refund any overpayment to you.
- 9.18 If we owe you an amount, we can provide it as a credit on your service account and deduct it from amounts you owe us.
- 9.19 You must pay the Charges by the due date specified on the bill and interest on overdue Charges at the rate of 2% per annum, which you agree is reasonable.
- 9.20 You must pay for the Service using the payment method specified on the bill or on our website, except that if a specific payment method is required in the Critical Information Summary, or otherwise agreed with you, you must use that payment method.
- 9.21 If you have agreed to pay by automatic payment or direct debit from your credit card, Charge card or bank account you:
- a. (in the case of payments by card) authorise us to disclose your card details to and obtain information from the card issuer to verify those details and your ability to pay the relevant Charges using the card;
 - b. authorise us to debit your credit card, Charge card or bank account all monies you owe us from time to time in accordance with the Agreement, including any Charges which may become owing as a result of termination of the Agreement;
 - c. must ensure that your account has sufficient funds to allow payment when required
 - d. must notify us promptly if there is a change to your card or bank details;
 - e. pay a credit card fee if applicable as set out in the Critical Information Summary, and you acknowledge that we may choose to stop accepting credit or Charge cards from one or more providers, by giving you reasonable notice.
- 9.22 If you fail to pay any monies owing to us in connection with the Service we may (at our discretion):
- a. restrict, suspend or terminate the Service;
 - b. withdraw any discount in connection with the Service;
 - c. Charge you our reasonable costs of recovering payment; and
 - d. pass on to you any fee Charged to us upon the dishonour of any payment.
- 9.23 If you have reason to believe there is an omission or error in relation to a Charge on a bill, you may dispute the bill, by giving written notice to our customer service team before the due date for payment of the bill. Your notice must set out the date and number of the disputed bill, itemised details of the Charges in dispute, your detailed reasons and any documentation to support your claim and enable us to investigate it. You must pay any undisputed amount by the due date.

10 NBN terms

- 10.1 This clause applies only to the supply of NBN access.
- 10.2 To acquire an NBN access, you must be in an area that is enabled for NBN and we do not guarantee provision or continuation of access.
- 10.3 NBN access may be transferred, depending on the type of NBN access. We do not guarantee that any Service can be transferred to another site. You must

pay all charges associated with a transfer and acknowledge that there may be delays and outages associated with a transfer.

- 10.4 The NBN access plan described in your Application will state a connection speed. This is a speed nominated by NBN and represents the maximum speed that will apply to your service. The actual speed may be slower and might vary according to many factors including the type and source of content being downloaded, hardware and software configuration, the number of users and performance of interconnecting infrastructure not operated by us. Devices connected by Wi-Fi may experience slower speeds than those connected by cable.
- 10.5 The installation process will vary, depending on whether your premises are connected, and the variety of NBN access available and installed at your premises. If the premises require the installation of infrastructure or equipment then you must ensure that someone will need to be present during installation and you must cooperate with all reasonable requests of the NBN Co representative.
- 10.6 If we and NBN Co reasonably determine that the NBN installation required is standard, you agree that we can complete the NBN installation unless you tell us otherwise.
- 10.7 Some services offered by third parties, such as PBX systems, fax services, EFTPOS, back-to-base alarm systems may be incompatible with the NBN service and may not be available after connection of your NBN service.
- 10.8 You agree that:
- a. an NBN connection can be used at one physical location and with one network system operation at the site we provide the Service. You must not use the connection for multiple locations;
 - b. you must ensure that you have compatible, working equipment installed to access and use NBN including, but not limited to router and cabling; and
 - c. you hold us harmless and will not be entitled to any refund for performance problems caused by equipment not supplied by us.

11 Phone numbers

- 11.1 This clause applies only when a Service involves the acquisition of a new phone number or the transfer of an existing phone number to us.
- 11.2 When you acquire a new phone number, you acknowledge and agree that:
- a. numbers are selected, issued and used by us in accordance with ACMA's Numbering Plan and Telecommunications Numbering Plan Number Declarations (Numbering Regulations);

- b. we may be required to recover, or recover and replace, a phone number we have issued to you in order for us to comply with the Numbering Regulations - we will give you as much notice as is reasonably practicable if we have to do this;
- c. there may be a charge if you request, and we issue, a new number;
- d. if you request a new phone number because you have received calls of a harassing nature and you reported the matter to the relevant law enforcement agency, we will supply you with a new phone number free of charge on the first two occasions;
- e. you do not own the number but your right to use it starts when we issue the number to you and ends when we cease to provide the Service to which it relates (unless you port the number);
- f. you may transfer your service number to another carrier or service provider but charges may apply and you remain liable for outstanding Charges;
- g. transfer of numbers may result in disconnection of related services such as voicemail, paging and data services, silent numbers, priority assistance or other enhanced services.

11.3 When you transfer a number to us, you acknowledge and agree that:

- a. you authorise us to sign on your behalf and in your name forms of authority to your current supplier to transfer your number(s) to us and you authorise your current supplier to transfer to us all services relating to the numbers transferred to us;
- b. if your current supplier charges or credits us with any amount concerning services provided before the date of transfer, we will credit or charge that amount to your account; and
- c. you indemnify us against any claims made by your current supplier to us in relation to any amounts owing by you to them.

11.4 If you cease to receive the Service from us and do not port the relevant number(s) to another provider, we may issue the phone number to another customer in accordance with the Numbering Regulations and accept no responsibility for any resulting cost, loss or damage whatsoever.

12 IP addresses

- 12.1 This clause applies only when a Service involves the acquisition of an IP address by us.
- 12.2 You acknowledge and agree that:

- a. the IP address(es) are only issues for the term of, and in connection with, the Service;
- b. on termination of the Service, your right to use the IP address(es) ceases; and
- c. we are responsible for all DNS delegation and routing in connection with the Service.



Screwloose IT

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