

OUR CUSTOMER TERMS OTHER SERVICES SECTION

PARTNER DELIVERED NETWORK SERVICES

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Certain words are used with the specific meanings set in the General Terms of Our Customer Terms at <http://www.telstra.com.au/customer-terms/business-government/index.htm>

1 ABOUT THIS PART

- 1.1 This is the Partner Delivered Network Services section of the Other Services section of Our Customer Terms.
- 1.2 See section one of the General Terms of Our Customer Terms at <http://www.telstra.com.au/customer-terms/business-government/index.htm> for more detail on how the various sections of Our Customer Terms are to be read together.

2 PARTNER DELIVERED NETWORK SERVICES

Our services

- 2.1 Partner Delivered Network Services includes a range of services under the following categories:
 - (a) Professional Network Services (**Network Services**); and
 - (b) Network Equipment.
- 2.2 Your application form will set out the details of the Partner Network Services and/or the Network Equipment to be provided by us.
- 2.3 We agree to perform the Network Services and/or deliver the Network Equipment to you, as set out on your application form.
- 2.4 We may sub-contract any or all of the Partner Delivered Network Services we are to perform for you without your prior consent.

Availability

- 2.5 The Partner Delivered Network Services are not available to Telstra wholesale customers or for resale.

Your obligations

- 2.6 Your application form will also set out the details of any materials and inputs to be provided by you. You must provide these materials and inputs by the dates specified in your application form or, where no dates are specified, upon our reasonable request.
- 2.7 Where our personnel perform the Network Services or deliver Network Equipment to you at your premises, you will ensure that your premises comply with all applicable health, safety, environment and community laws and regulations.
- 2.8 You will obtain any consents and fund any site access and induction fees necessary to enable our personnel to access your premises for the purposes of providing the Network Services or delivering the Network Equipment to you.

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- 2.9 Unless otherwise agreed in your application form, the Network Services and any Network Equipment are provided for your benefit only. You must not use them for a third party's benefit or allow a third party to use them.

Acceptance of Network Services and Network Equipment

- 2.10 At the completion of the Network Services or delivery of Network Equipment to you, you must sign a customer acceptance certificate.
- 2.11 Acceptance of a Network Service or Network Equipment occurs on the earliest of:
- (a) the date you issue the customer acceptance certificate to us; or
 - (b) the date you use the Network Service or Network Equipment in any way other than for testing purposes.
- 2.12 Acceptance of a Network Service or Network Equipment does not affect any rights you may otherwise have under any law or elsewhere in these terms to have defects corrected.

Scheduled timeframes and delivery dates

- 2.13 We aim to meet the scheduled timeframes and delivery dates set out in your application form but cannot guarantee to do so. The time estimates in your application form are based on our previous experience, assumptions as to the nature of your internal environment, the availability of our consultants at the time of contract and the timeliness of your inputs and materials. As a result, any indications given by us with respect to the delivery dates are estimates only and may vary.
- 2.14 We only have to perform the Network Services during Business Hours (8am to 6pm Monday to Friday, excluding public holidays in the place where you are located). If you want us to perform the Network Services at another time, there will be extra charges that we will advise you of.

Change management

- 2.15 Either of us may request changes to the scope of Network Services or Network Equipment to be provided to you.
- 2.16 If we both agree on the proposed changes then we will provide you with a document setting out the impact of the changes on the scope of your Network Services or Network Equipment (including price, Network Equipment and resources) unless these details are already set out in your change request.
- 2.17 If, in our reasonable opinion, we will need to undertake material effort to analyse and document the impact of the changes then we may charge you for undertaking this work. We will agree the prices for doing so with you separately prior to beginning work.
- 2.18 If you agree on the impacts of the change request, we will perform the Network Services or provide the Network Equipment as varied by the requested change.

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3 FEES AND CHARGES

- 3.1 Unless otherwise stated, all fees and charges set out in your application form are:
- (a) in Australian dollars (\$AUD); and
 - (b) GST exclusive.
- 3.2 You must pay to us the fees in the amounts and at the times set out in your application form.
- 3.3 You must also reimburse us for out-of-pocket expenses reasonably and actually incurred by us in performing the Network Services, provided that we:
- (a) first obtain verbal approval for each expense from you; and
 - (b) produce a valid invoice or receipt when claiming the expense.

4 NETWORK SERVICES

Your premises

- 4.1 You must:
- (a) ensure that the working environment is safe for us to provide Network Services;
 - (b) prepare the working environment for us to provide the Network Services; and
 - (c) provide us with anything else we require in order for us to provide the Network Services.
- 4.2 We will use due care and skill in providing the Network Services to you but, subject to clause 5.9, do not guarantee that they will be continuous or fault free.
- 4.3 We are not responsible for any loss or damage to software, firmware, information or memory data of yours contained in, stored on, transmitted to or integrated with your equipment while it is the subject of the Network Services. We are not responsible for any other problem during the performance of the Network Services unless we caused the problem.
- 4.4 We will not be liable to you for any indirect or consequential loss or damage incurred or suffered by you in connection with the performance of the Network Services.
- 4.5 We cannot guarantee that the Network Services will produce particular results or outcomes for you (such as achieving external certification, accreditation or industry standards).

Cancellation of Network Services

- 4.6 You may cancel your Network Services at any time by giving us not less than 14 calendar days' prior written notice (or such other notice as may be specified in your application form). We will cease work in accordance with that notice.
- 4.7 We will charge you for all Network Services performed up to your cancellation.

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5 NETWORK EQUIPMENT

Subject to availability

- 5.1 You acknowledge that the supply of the Network Equipment is subject to availability of the Network Equipment from the supplier.
- 5.2 We will use reasonable endeavours to deliver the Network Equipment to you within a reasonable timeframe and inform you of any delays in the delivery of the Network Equipment. You may request special delivery or installation of the Network Equipment and we will use our reasonable endeavours to comply with any such requests at your cost, which we will advise you of.
- 5.3 You must ensure that your working environment is safe for us to deliver the Network Equipment.

Delay in delivery

- 5.4 To the extent any delay is not caused by us:
 - (a) we will not be responsible for a delay in delivering Network Equipment; and
 - (b) the delivery date or due date for the Network Equipment and any subsequent Network Equipment will automatically be extended by a period equal to the period of delay.

Title and risk

- 5.5 Risk in the Network Equipment passes to you when we deliver the Network Equipment to you.
- 5.6 Property in and title to Network Equipment (excluding any intellectual property rights in a Deliverable) will not pass to you until you have paid us in full for that Deliverable.

Recovery

- 5.7 You agree that:
 - (a) we reserve the right to repossess the Network Equipment if you do not pay the fee for the Network Equipment;
 - (b) you grant us an irrevocable licence for our employees, agents or contractors to enter your premises or the premises where the Network Equipment is located with reasonable notice (and you must obtain permission for us to enter such premises) in order to repossess the Network Equipment pursuant to clause 5.7(a) above; and
 - (c) it is your obligation to ensure the adequacy of the security of the Network Equipment on your premises including preventing fraudulent intrusions into and/or unauthorized use of the Network Equipment and to take all reasonable steps to prevent unauthorised disclosure of any passwords.

Cancellation of Network Equipment Order

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- 5.8 If you cancel an order for Network Equipment after we have ordered it for you but before it has been delivered to you (unless as a result of our material breach), in addition to any other rights we may have, we may, at our sole discretion, require you to pay for the Network Equipment that has been ordered for you or the reasonable expenses we have incurred up to the date that you cancel your order. If we require you to pay for the Network Equipment you will be entitled to keep the Network Equipment that you have paid for.

Warranty

- 5.9 If you are a consumer as defined in the Australian Consumer Law, our goods come with guarantees that cannot be excluded under the Australian Consumer Law. You are entitled to a replacement or refund for a major failure and for compensation for any other reasonably foreseeable loss or damage. You are also entitled to have the goods repaired or replaced if the goods fail to be of acceptable quality and the failure does not amount to a major failure.
- 5.10 Subject to clause 5.9, we aim to, but cannot guarantee, that the Network Equipment will be free from defects or errors.
- 5.11 We do not accept responsibility or liability for defects in Network Equipment which result from your inputs and/or materials or which are caused by misuse of or intentional damage to the Network Equipment (other than by us).

Intellectual property rights

- 5.12 As between you and us, we retain all intellectual property rights in and to our material which we incorporate into your Network Equipment and any material we develop for you in carrying out the services.
- 5.13 Unless otherwise set out in your application form, we grant to you a perpetual, non-exclusive, non-sub-licensable and non-transferable license in Australia to use, adapt and reproduce solely for your internal business purposes our material which is incorporated into Network Equipment and any material we develop for you in carrying out the services.

6 GENERAL

Confidentiality

- 6.1 Each of us will treat as confidential information all information provided by the other relating to the provision of the Partner Delivered Network Services including:
- (a) your application form and the statement of work; and
 - (b) technical, operational, billing, pricing and commercial information in relation to the supply of the Partner Delivered Network Services.
- 6.2 Neither of us will disclose the other's confidential information to any person except:
- (a) to our respective employees, lawyers, accountants and sub-contractors on a 'need-to-know' basis provided that those persons first agree to observe the confidentiality required under these terms;
 - (b) with the other's prior written consent;

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- (c) if required by law, any regulatory authority or stock exchange; or
- (d) if it is in the public domain.

Responsibility for your inputs

- 6.3 You are responsible for any loss, damage, liability, costs or expenses incurred by us as a result of a claim that any inputs or material provided by you or its use by us in accordance with your Network Services or Network Equipment infringes the intellectual property rights of any person.