

1 ABOUT THESE TERMS

What are our Jet IT General Terms?

- 1.1 Our Jet IT General Terms are our Standard Form of Agreement. You and we must comply with these terms unless You and We have agreed differently in writing.
- 1.2 These General Terms and the particular terms of any service we have with you, make up our agreement with you (referred to from here, as Our Customer Terms).

2 BECOMING A JET IT CUSTOMER

Accepting your application

- 2.1 When you ask us for a service, we may decide whether to supply it to you based on:
 - (a) your eligibility for the service (e.g whether you meet our criteria); and
 - (b) the particular terms for that service; and
 - (c) its availability to you; and
 - (d) where applicable, you meeting our credit requirements.

Supplying your service

- 2.2 We will try to supply your service within a reasonable time.

Transferring your service

- 2.3 You can transfer legal responsibility for your service if you get our written consent first.

Assignment by us

- 2.4 We can assign, novate or transfer our rights, benefits, obligations and/or liabilities under Our Customer Terms to another person (**Incoming Party**) provided that:
 - (a) the Incoming Party will assume those rights, benefits, obligations and/or liabilities;
 - (b) your rights and the services provided to you under Our Customer Terms will not be prejudiced as a result of the assignment, novation or transfer;
 - (c) the assignment, novation or transfer is occurring as part of a sale of our business or business restructure; and
 - (d) we have given you 30 days' prior notice of any such novation, assignment or transfer.
- 2.5 You must accept performance by the Incoming Party in place of performance by us.

3 USING YOUR JET IT SERVICE

Our aim

- 3.1 We will use reasonable care and skill in providing our service and will provide our service in accordance with Our Customer Terms.

- 3.2 While we can promise to use our best efforts to provide you with the service, there may be instances when we cannot provide the service (or part of it) for reasons beyond our control. In this case, we will tell you and provide you with a workaround, where possible.

For example, this may include things like a Microsoft Office outage impacting your Outlook account, a cyber-attack impacting your systems or an issue with your systems that cannot be resolved after reasonable troubleshooting.

Maintenance and repair of equipment

- 3.3 Where our services involve using equipment that does not belong to us and that is at your premises, you must maintain and repair that equipment. This includes carrying out any maintenance or repairs that we reasonably think is required to provide our service within a reasonable timeframe of when we ask you to do so.
- 3.4 Where your equipment causes a fault in your service that we need to repair, we may charge you our reasonable charges for repairing the fault. We will tell you the amount we will charge for repairing faults before we start work and obtain your agreement to perform the work.

Breaking the law

- 3.5 You must not use a service to commit an offence or allow anybody else to do so.

Your responsibility for equipment

- 3.6 You are responsible for any equipment at your premises (including any that belongs to us). You have to pay us for any loss or damage to our equipment at your premises, except for fair wear and tear.

Compliant equipment only

- 3.7 You must only connect equipment that complies with relevant technical standards and other relevant requirements.
- 3.8 You must make any changes we ask to your equipment to avoid any danger or interference it may cause.
- 3.9 If an item requiring support does not meet our minimum standards, we may refuse to support the item.

Tell us if things change

- 3.10 You have to tell us about any relevant changes that may affect our ability to provide your service to you.

4 CHANGING OUR CUSTOMER TERMS

- 4.1 We can change Our Customer Terms by getting your consent in writing.

Changes we can make without telling you

- 4.2 We can change Our Customer Terms immediately without telling you if we reasonably consider the change is likely to:
- (a) benefit you; or
 - (b) have a neutral impact on you.

Examples of changes that will benefit you: reducing charges, adding services at no extra cost to you, increasing our obligations or giving you new rights. Examples of changes that will have a neutral impact on you: changing the name of a service or how we provide a service to you (including the technology we use) in a way that does not detrimentally impact you.

Changes we can make by telling you at least 3 days beforehand

- 4.3 We can change Our Customer Terms by telling you at least 3 days beforehand if we reasonably consider the change is likely to have a minor detrimental impact on you.

Examples of changes with a minor detrimental impact: a small increase in charges or taxes, an increase to an ancillary service charge (eg billing charges or credit card transaction charges) where we offer a reasonable alternative service at no extra cost, or the removal of a minor feature of your service.

Changes we can make by telling you at least 30 days beforehand

- 4.4 We can change Our Customer Terms by telling you at least 30 days beforehand if we reasonably consider that it has more than a minor detrimental impact on you. You can cancel your service within 42 days of us telling you of the change (whether or not you are a fixed term customer).

Examples of such changes: a significant increase in charges, or the removal of a key feature of your service or a key pricing offer associated with the service without providing a reasonably comparable alternative feature or pricing offer, or changes that significantly increase the obligations or significantly limit the rights of the majority of our customers.

Considerations for evaluating when a change detrimentally impacts you

- 4.5 In this clause 4, in determining whether we reasonably consider that a change is likely to have a minor detrimental impact or more than a minor detrimental impact on you, we will take into account whether:
- (a) you have used, or been billed for, the affected service in the last 6 months; and
 - (b) the service is an optional 'add-on' or 'value add' service that you have acquired in the past; and
 - (c) the service is a 'once-off service'.

Fees for cancelling the service

- 4.6 If you cancel your service under clause 4.4 you will only incur the following fees and charges:
- (a) usage and other charges up to the cancellation date;
 - (b) installation fees; and
 - (c) cost of equipment we have provided to you that you have not paid us for.

Making urgent changes

- 4.7 We can make urgent changes to Our Customer Terms that are:
- (a) required by law; or
 - (b) necessary for security reasons, to prevent fraud or for technical reasons,
- by telling you at least 3 days before the changes if we can, or if we are unable to do so, by giving as much notice as we reasonably can.

How we can tell you about the changes

- 4.8 We can tell you about changes to Our Customer Terms under this clause 4 by any method we consider reasonable in the circumstances, including email, SMS, telephone or other mobile apps.

5 CHARGES AND PAYMENT

Charges

- 5.1 Our Customer Terms set out the charges you must pay us for your services. Sometimes you have to pay a particular charge in advance.
- 5.2 If you use your service to access a service provided by someone else, and we are charged for that other service, you must also pay us for that other service.

Bills

- 5.3 We issue bills for charges for your services regularly. We can also issue an interim bill at any time.
- 5.4 We try to include all charges relating to a billing period on that bill. Where that does not happen, bills may include charges from previous billing periods.
- 5.5 We will ensure that our bills are accurate and verifiable and we are committed to complying with these requirements. Our records are sufficient proof that a charge is payable.

Paying your bill by credit card

- 5.6 If your bill is paid by credit card, we may charge you a credit card payment processing fee. Refer to your bill for the amount of the fee.

Late or dishonoured payments

- 5.7 If we do not receive your payment by the due date on your bill, we can charge you an administrative fee of \$15.00 if the amount outstanding on your bill is \$200.00 or more. No administrative fee is charged if the amount outstanding on your bill after the due date is less than \$200.
- 5.8 We can also restrict, suspend or cancel your service (or restrict, suspend or cancel any or all of your services in the case of a Single Bill), provided we comply with our rights to cancel or suspend your service set out in Our rights to cancel or suspend your service under clause 7 (or under any other agreement between us for any service or services).
- 5.9 If you pay a bill by cheque and the cheque is dishonoured, we may require you to pay us a fee of \$15.00. If you pay a bill by direct debit and there are insufficient funds in the account, we may also require you to pay us a fee of \$10.00. These fees do not attract GST.

GST

- 5.10 If GST is imposed on any supply we make to you under Our Customer Terms and the consideration payable for the supply under any other clause of Our Customer Terms is not expressed to be inclusive of GST, you must pay us on demand by us, an additional amount calculated by multiplying the value of that GST-exclusive consideration (without deduction or set-off) by the prevailing GST rate. We will issue a tax invoice to you for any supply on which GST is imposed.

6 YOUR RIGHTS TO CANCEL OR SUSPEND YOUR SERVICE

Choosing to cancel your service

- 6.1 You can cancel your service at any time by telling us in writing at least 30 days beforehand. However, if you cancel your service before the end of any fixed length contract, we may charge you any applicable early termination charges. The amount of the early termination charge is set out in the particular terms of that service.

6.2 If you cancel a service before we have provided it to you, we may charge you any reasonable costs we incurred as a result of preparing to provide the service to you.

Material breach by us

6.3 You can cancel your service at any time if:

- (a) we are in material breach of Our Customer Terms; and
- (b) you have told us in writing of our material breach and we have failed to remedy it within 30 days of you telling us; or
- (c) the breach is something which cannot be remedied (in which case you can terminate the service immediately by telling us).

We will not charge you any early termination charge if you cancel your service because of our material breach.

Your other rights to cancel

6.4 You can also cancel your service by telling us with as much warning as you reasonably can if:

- (a) we become insolvent;
- (b) the law requires you to do so; or
- (c) provision of the service becomes illegal.

We will not charge you any early termination charge if you cancel your service in these circumstances.

Refunds of prepayments

6.5 If you cancel your service under this clause, we will refund to you any unused portion of your monthly charge and any other amount you have prepaid. However, we can deduct from your refund any amounts that you owe to us, such as charges you incurred before the cancellation (e.g. arrears) or any applicable early termination charge.

7 OUR RIGHTS TO CANCEL OR SUSPEND YOUR SERVICE

Choosing to cancel your service - fixed term customers

7.1 If you are a fixed term customer, we can cancel your service before the end of your fixed length contract at any time if:

- (a) we get your consent to do so; or
- (b) we provide you with 90 days' notice.

If we cancel your service in this way, we will not charge you any early termination charge.

Material breach by you

7.2 We can cancel your service at any time if:

- (a) you are in material breach of Our Customer Terms; and

- (b) we have told you in writing of your breach and you have failed to remedy it within 30 days of us telling you (or such longer period as we tell you or as set out in another section of Our Customer Terms); or
- (c) the breach is something which cannot be remedied (in which case we can cancel the service immediately by telling you).

7.3 You will be in material breach of Our Customer Terms if you:

- (a) breach your obligation to pay our charges for your service;
- (b) use your service in a way which we reasonably believe is fraudulent, poses an unacceptable risk to our security or is illegal or likely to be found illegal; or
- (c) you are abusive to our staff.

7.4 We can charge you the applicable early termination charge if you are a fixed term customer and we cancel your service before the end of the fixed term because of your material breach.

Our other rights to cancel, suspend or restrict your service

7.5 We can cancel, suspend or restrict your service by telling you with as much warning as we reasonably can if:

- (a) the law requires us to do so;
- (b) providing the service becomes illegal or we believe on reasonable grounds that it may become illegal;
- (c) there is an emergency that affects our ability to provide the service;
- (d) we are not able to provide the service to you due to an event outside our reasonable control (such as a failure in equipment that is not owned or operated by us, an industrial strike or an act of God); or
- (e) we reasonably believe that providing the service may cause death, personal injury or damage to property.

We will not charge you any applicable early termination charge if we cancel your service for one of these reasons.

7.6 We can also cancel, suspend or restrict your service by telling you with as much warning as we reasonably can if:

- (a) you become bankrupt or insolvent or appear likely to do so;
- (b) an administrator, receiver or scheme administrator is appointed to you, and that administrator, receiver or scheme administrator does not accept personal liability for the ongoing supply of services by us within 3 business days of our request that they do so;
- (c) we cannot enter your premises to do something in connection with the service that we need to do in order to supply the service (or part of it) or make the service or related equipment safe;
- (d) you vacate the premises to which the service is connected;
- (e) there is excessive or unusual use of the service; or

- (f) we reasonably consider that you pose an unacceptably high credit risk to us.

We consider that you pose an unacceptably high credit risk to us when there is some doubt as to your ability to pay by the due date based on factors such as:

- *previous payment history and payment behaviour (e.g. late payments, dishonoured payments or failure to pay);*
- *any previous advice from you about a potential inability or unwillingness to pay;*
- *your response where we have told you of this unusually high usage; or*
- *pending bankruptcy or insolvency.*

- 7.7 We can charge you any applicable early termination charge if you are a fixed term customer and we cancel your service before the end of the fixed period under the previous clause.

Refund of prepayments

- 7.8 If we cancel your service under this clause, we will refund to you any unused portion of your monthly charge and any other amount you have prepaid. However, we can deduct from your refund any amounts that you owe to us (unless these terms say otherwise). For example, we can deduct charges you have incurred before cancellation or any applicable early cancellation charge.

8 OUR LIABILITY TO YOU

Interruption or delay

- 8.1 If we fail to meet any of our service level obligations as a result of any interruption or delay to your service caused directly by us, we accept liability to you, but limit our liability to the applicable service level rebates or credits.

When we are not liable

- 8.2 Other than for the liability we accept under clauses 8.1, we exclude all other liability whether to you or a third party for breach of contract, negligence or breach of any other law. For any liability which cannot lawfully be excluded as it is under this clause 8, our liability is limited to resupplying or paying the cost of resupplying services and repairing, replacing or paying the cost of repairing or replacing goods.
- 8.3 Notwithstanding anything else in this clause 8, our liability will be reduced to the extent the loss or damage is caused by you, your employees, agents or contractors.

Beyond our control

- 8.4 We will not be responsible for any loss or damage arising from circumstances outside our reasonable control.
- 8.5 Where our service includes the installation of third-party software, we cannot be held liable for any issues associated with the third-party's software which are outside our reasonable control.

For example, this includes outages of the supplier or issues caused by cyber-attacks.

After cancellation or suspension

- 8.6 These provisions relating to liability will continue unaffected by cancellation or suspension of your service.

9 YOUR LIABILITY TO US

Joint customers

- 9.1 If you and one or more others are the customer for a service, each of you is jointly and individually responsible for all charges and other obligations relating to that service.

Liability and excluded types of loss

- 9.2 You are liable to us for breach of contract or negligence under the principles applied by the courts. However, you are not liable to us for any loss to the extent that it is caused by us (for example, through our negligence or breach of contract).

After cancellation or suspension

- 9.3 These provisions relating to liability will continue unaffected by cancellation or suspension of your service.

10 ACCESSING YOUR PREMISES

Accessing your premises

- 10.1 We may need access to your premises. You agree to provide us safe access to your premises to:
- (a) install equipment for a service to be provided; and
 - (b) inspect, test, maintain, repair or replace equipment; and
 - (c) recover our equipment after your service is cancelled or after we transfer you to another service in accordance with our rights under clause 7.
- 10.2 You owe us the value of our equipment as a debt due if we cannot access your premises to recover it.

Owner's permission

- 10.3 If you do not own your premises, you must get the owner's permission for us to access the premises and install any equipment. You promise to us that you have got that permission.

11 PRIVACY

- 11.1 We collect, use and disclose personal information as set in our Privacy Policy available on our website <https://efex.com.au/privacy-policy/>.

12 OTHER MATTERS

- 12.1 If any term (or part of a term) in Our Customer Terms is void or unenforceable, that term (or part) is taken to be removed from Our Customer Terms and not to form part of them. The remaining terms continue to have full effect.

13 SPECIAL MEANINGS

- 13.1 In Our Customer Terms:

charge means a charge specified in Our Customer Terms.

credit card means any credit or charge card accepted by us as a form of payment from time to time.

customer means a person who contracts with us for a service (including for supply of that service to another person) or who otherwise acquires a service from us, or who seeks to do either of these.

equipment means any item used or supplied in connection with a service.

excessive or unusual use of a service means where there is a high volume of usage outside of normal usage patterns or other usage.

GST means the tax imposed by the A New Tax System (Goods and Services Tax) Act 1999 and related Acts.

insolvent includes having a receiver, manager, administrator, deed administrator, scheme administrator, provisional liquidator or liquidator appointed to you or your parent company, or you or your parent company making or publically announcing an application for a scheme of arrangement to avoid an insolvent liquidation.

network means a “telecommunications network” as defined under the Telecommunications Act 1997.

a reference to a **person** includes the person’s executors, successors and assigns.

premises means any land, building, structure, vehicle or vessel, whether owned, leased or occupied by you, containing equipment or a service, or to which a service is supplied.

service includes any goods or equipment provided in connection with a service.

tax invoice has the meaning given in the A New Tax System (Goods and Services Tax) Act 1999 (Cth).

we means Thinkex Holdings Pty Ltd ABN 28 625 658 568 trading as Jet IT, and includes its successors and assigns.

you means the customer.