

1. OUR AGREEMENT WITH YOU

- 1.1 **Agreement:** We will provide you with Services, Software, Maintenance and/or Equipment in accordance with these terms and conditions and the applicable charges and terms notified to you from time to time in the Application and any associated Critical Information Summary or Service Support Schedule (collectively, the Agreement). In the event of any conflict between these terms and conditions and the Application, Critical Information Summary or Services Support Schedule these terms and conditions will prevail.
- 1.2 **SFOA:** These terms and conditions are a Standard Form of Agreement (SFOA) formulated for the purposes of part 23 of the Telecommunications Act.
- 1.3 **Acceptance:** This Agreement is not legally binding on us until we accept your Application, except that we may undertake credit checking and use information supplied by you in accordance with Clause 11, and we may process your Application and prepare to activate the Services, Software or Maintenance and prepare to order any required Equipment or Supplier Equipment. If your Application is refused or cancelled, we may charge you an amount equal to our costs for this work. Your Application will be deemed to be accepted by us at the earlier of the date that your Services, Software or Maintenance are activated, or any Equipment or Supplier Equipment is ordered.

2. PROVISION OF ADAPTIVE CONNECTIVITY AS A SERVICE

- 2.1 **Provision of Adaptive Connectivity as a Service:** We will provide you with Adaptive Connectivity as a Service covering telecommunications and information technology Services, Software, Maintenance and/or Equipment nominated, or reasonably assumed to be nominated, by you on the initial and any subsequent Application accepted by us on the terms of this SFOA. We may accept and rely on, and you will be bound by, a facsimile copy or an electronic copy from you by email or a voice authorisation of your Application as if it were an original.
- 2.2 **Access to Wholesale, Agency and Retail Suppliers:** We will provide the Services, Software, Maintenance and/or Equipment using our facilities and services and those of Wholesale Suppliers, Agency Suppliers and Retail Suppliers as we may determine from time to time.
- 2.3 **Adaptive Connectivity as a Services Fees:** You will pay us an Adaptive Connectivity as a Service fee calculated as 2% of the total monthly value of any Services, Software, Maintenance and/or Equipment provided by us or the Wholesale Suppliers, Agency Suppliers and Retail Suppliers nominated or reasonably assumed to be nominated by you on the initial and any subsequent Application accepted by us.
- 2.4 **Provision of Transformation Services:** We will provide the Transformation Services to you as specified in your Application and where applicable the related Statement of Works. If you nominate Transformation Services on an Application we will use reasonable endeavours to help you transform your telecommunication and information technology decision making, sourcing, implementation and service delivery within the agreed scope.
- 2.5 **Availability of Transformation Services:** You acknowledge that our ability to deliver Transformation Services and associated transformation outcomes reporting will be subject to your accurate and timely provision of or facilitating access to the information, personnel and Sites reasonably requested by us, and that you will assign a suitably qualified and empowered manager to be our primary point of contact for delivery of Transformation Services and to oversee and coordinate access to information, personnel and Sites.
- 2.6 **Transformation Services Fees:** The charges applicable to the Transformation Services are specified in the Application and where applicable the related Statement of Works and Clauses 3.1, 3.2 and 3.3 of this SFOA. We may vary any of

the charges applicable to the Transformation Services by raising a change request or variation with you. You acknowledge and agree that your approval of change requests or variations will not be unreasonably withheld and will be provided in a timely manner.

- 2.7 **Provision of CommsAssure Voice Services:** We will provide the CommsAssure Voice Services to you, as specified in your Application and where applicable the related Critical Information Summary, when we supply your new Service Numbers or your accounts are transferred from your current Supplier to us or our nominated Supplier in accordance with the Local Number Portability process and upon successful activation of your CommsAssure Voice Services by us or our nominated Supplier. If you are using CommsAssure Voice Services, you agree to comply with our Acceptable Use Policy and/or Fair Use Policy or the Acceptable Use Policy and/or Fair Use Policy of our nominated Supplier where applicable. If you nominate CommsAssure Voice Services on an Application, you acknowledge that we will assume you wish to select us or our nominated Supplier as your default carrier for local, national and international long distance calls and calls to mobile services. We or our nominated Supplier will provide you with the CommsAssure Voice Services for all your local, national and international long distance calls and calls to mobile services (as applicable) unless you dial another override code for local, long distance, international calls or calls to mobile services (as applicable) on a call by call basis.
- 2.8 **Availability of CommsAssure Voice Services:** We will provide the required CommsAssure Voice Services and/or CommsAssure Voice Equipment and/or Supplier Equipment subject to availability, geographical and technical capability. There may also be times when availability is limited due to maintenance being performed. We are not obliged to provide you with CommsAssure Voice Services and/or CommsAssure Voice Equipment and/or Supplier Equipment where capacity, geography, technical capability or inadequacy of physical infrastructure at your Site affects the application or installation of the CommsAssure Voice Service and/or CommsAssure Voice Equipment and/or Supplier Equipment to your Site. You acknowledge that certain CommsAssure Voice Services coverage may only be available at selected Sites or in selected metropolitan and/or regional areas. We do not warrant that the CommsAssure Voice Services and/or CommsAssure Voice Equipment and/or Supplier Equipment will be free of interruption, delays, or fault.
- 2.9 **CommsAssure Voice Services Fees:** The charges applicable to the CommsAssure Voice Services are specified in the Application and where applicable the related Critical Information Summary. We may vary any of the charges applicable to the CommsAssure Voice Services in accordance with Clauses 2.22, 3.4 or 3.5.
- 2.10 **Provision of CommsAssure Data Services:** We will provide the CommsAssure Data Services to you, as specified in your Application and where applicable the related Critical Information Summary, when your new CommsAssure Data Services are installed or accounts are transferred from your current Supplier to us or our nominated Supplier and upon successful activation of your CommsAssure Data Services by us or our nominated Supplier. If you are using CommsAssure Data Services, you agree to comply with our Acceptable Use Policy and/or Fair Use Policy or the Acceptable Use Policy and/or Fair Use Policy of our nominated Supplier where applicable.

- 2.11 **Availability of CommsAssure Data Services:** We will provide the required CommsAssure Data Services and/or CommsAssure Data Equipment and/or Supplier Equipment subject to availability, geographical and technical capability. There may also be times when availability is limited due to maintenance being performed. We are not obliged to provide you with CommsAssure Data Services and/or CommsAssure Data Equipment and/or Supplier Equipment where capacity, geography, technical capability or inadequacy of physical infrastructure at your Site affects the application or installation of the CommsAssure Data Service and/or CommsAssure Data Equipment and/or Supplier Equipment to your Site. You acknowledge that certain CommsAssure Data Services coverage may only be available at selected Sites or in selected metropolitan and/or regional areas and that certain CommsAssure Data Services may not be suitable for and are not supplied for supporting any application that needs continuous fault free services. We do not warrant CommsAssure Data Services and/or CommsAssure Data Equipment and/or Supplier Equipment will be free of interruption, delays, or fault.
- 2.12 **CommsAssure Data Services Fees:** The charges applicable to the CommsAssure Data Services are specified in the Application and where applicable the related Critical Information Summary. Your usage of CommsAssure Data Services will be calculated based on data uploaded and downloaded, unless your Application or Critical Information Summary states otherwise. We may vary any of the charges applicable to the CommsAssure Data Services in accordance with Clauses 2.22, 3.4 or 3.5.
- 2.13 **Provision of CommsMobilise Services:** We will provide the CommsMobilise Services to you, as specified in your Application and where applicable the related Critical Information Summary, when we supply your new Service Numbers or your accounts are transferred from your current Supplier to us or our nominated Supplier in accordance with the Mobile Number Portability process and upon successful activation of your CommsMobilise Services by us or our nominated Supplier. If you are using CommsMobilise Services, you agree to comply with our Acceptable Use Policy and/or Fair Use Policy or the Acceptable Use Policy and/or Fair Use Policy of our nominated Supplier where applicable. If you nominate CommsMobilise Services on your Application, you acknowledge that we will assume you wish to select us or our nominated Supplier as your default carrier for mobile voice and data Services.
- 2.14 **Availability of CommsMobilise Services:** We will provide the required CommsMobilise Services and/or CommsMobilise Equipment and/or Supplier Equipment subject to availability, geographical and technical capability, physical obstructions, atmospheric and weather conditions or other causes of radio interference. There may also be times when availability is limited due to maintenance being performed. We are not obliged to provide you with CommsMobilise Services and/or CommsMobilise Equipment and/or Supplier Equipment where capacity, geography or technical capability, physical obstructions, atmospheric and weather conditions or other causes of radio interference affect the CommsMobilise Services and/or CommsMobilise Equipment and/or Supplier Equipment. The CommsMobilise Service is only available within the limitations of the Suppliers mobile network (over which we have no control) and within that coverage area there may be areas where coverage is limited or unavailable. If you require a coverage map or further information you may contact our client service team. You acknowledge and agree that the CommsMobilise Services are not suitable for and are not supplied for supporting any application which needs continuous fault free service. We do not warrant that the CommsMobilise Services and/or CommsMobilise Equipment and/or Supplier Equipment will be free of interruption, delays or faults.
- 2.15 **CommsMobilise Services Fees:** The charges applicable to the CommsMobilise Services are specified in the Application and where applicable the related Critical Information Summary. Only calls captured and recognised by us within the bill period are included in the minimum monthly spend calculation. Certain call types such as international calls may take up to 3 months to appear on your bill. International call rates and international roaming rates are subject to variation. Please contact our client service team to confirm any prices before calling or travelling overseas. Your usage of data on CommsMobilise Services will be calculated based on data uploaded and downloaded, unless your Application or Critical Information Summary states otherwise. We may vary any of the charges applicable to the CommsMobilise Services in accordance with Clauses 2.22, 3.4 or 3.5.
- 2.16 **Provision of CommsConnect Services:** We will provide the CommsConnect Services to you, as specified in your Application and where applicable the related Critical Information Summary, when your new CommsConnect Services are installed or accounts are transferred from your current Supplier to us or our nominated Supplier and upon successful activation of your CommsConnect Services by us or our nominated Supplier. If you are using CommsConnect Services, you agree to comply with our Acceptable Use Policy and/or Fair Use Policy or the Acceptable Use Policy and/or Fair Use Policy of our nominated Supplier where applicable.
- 2.17 **Availability of CommsConnect Services:** We will provide the required CommsConnect Services and/or CommsConnect Equipment and/or Supplier Equipment subject to availability, geographical and technical capability. There may also be times when availability is limited due to maintenance being performed. We are not obliged to provide you with CommsConnect Services and/or CommsConnect Equipment and/or Supplier Equipment where capacity, geography, technical capability or inadequacy of physical infrastructure at your Site affects the application or installation of the CommsConnect Services and/or CommsConnect Equipment and/or Supplier Equipment to your Site. You acknowledge that certain CommsConnect Services coverage may only be available at selected Sites or in selected metropolitan and/or regional areas and that certain CommsConnect Services may not be suitable for and are not supplied for supporting any application that needs continuous fault free services. We do not warrant that the CommsConnect Services and/or CommsConnect Equipment and/or Supplier Equipment will be free of interruption, delays, or fault.
- 2.18 **CommsConnect Service Fees:** The charges applicable to the CommsConnect Services are specified in the Application and where applicable the related Critical Information Summary. We may vary any of the charges applicable to the CommsAssure Data Services in accordance with Clauses 2.22, 3.4 or 3.5.
- 2.19 **Provision of Optimisation Services:** We will provide the Optimisation Services to you as specified in your Application and where applicable the related Service Support Schedule. If you nominate Optimisation Services on an Application we will use reasonable endeavours to help you optimise your telecommunication and information technology decision making, sourcing, implementation and service delivery within the agreed scope.
- 2.20 **Availability of Optimisation Services:** You acknowledge that our ability to deliver Optimisation Services and associated optimisation outcomes reporting will be subject to your accurate and timely provision of or facilitating access to the information, personnel and Sites reasonably requested by us, and that you will assign a suitably qualified and empowered manager to be our primary point of contact for delivery of Optimisation Services and to oversee and coordinate access to information, personnel and Sites.

- 2.21 **Optimisation Services Fees:** The charges applicable to the Optimisation Services are specified in the Application and where applicable the related Service Support Schedule and Clause 3.6 of this SFOA. We may vary any of the charges applicable to the Optimisation Services in accordance with Clauses 2.22, 3.4 or 3.5.
- 2.22 **Variations:** We may vary a term of this SFOA and we will use reasonable endeavours to provide you with at least 21 days' written notice in advance of changes to this SFOA. You must provide us notice in writing within 7 days where you believe a change to this SFOA will have a material detrimental impact on you specifying the nature and extent of the detrimental impact. Both parties will use reasonable endeavours to mitigate any material detrimental impacts of changes to this SFOA. Without notice to you we may vary our charges or Supplier charges where the variation is likely to benefit or have a neutral impact or minor detrimental impact on you. Where variations to our charges or Supplier charges are required which may have more than a minor detrimental impact on you, we will provide you with at least 21 days' written notice in advance and will use reasonable endeavours to mitigate detrimental impacts or identify alternative Suppliers.
- 3. OUTCOMES FOCUS AND ALIGNMENT OF INTERESTS**
- 3.1 **Initial Transformation Services Value Guarantee:** Unless otherwise specified in the relevant Statement of Works, we will identify a minimum of \$5 in realisable savings for every \$1 of initial fees payable by you to us for completion of initial Transformation Services which may include but are not limited to business connectivity assessment, cloud readiness assessment, IT licensing assessment, wholesale optimal solution, risk free proof of concept, RFP management or other equivalent initial Transformation Services and where we have failed to do so the relevant initial fees will be reduced on a pro rata basis.
- 3.2 **Initial Transformation Services Opt Out:** If within 60 days of your receipt from us of the final report deliverable as part of our wholesale optimal solution, risk free proof of concept, RFP management report or other equivalent initial Transformation Services you have not engaged us to provide ongoing Adaptive Connectivity as a Service substantially implementing the recommendations contained in that report you will pay us in full a Gain Share calculated as 20% of the reasonably realisable savings identified by us over and above the Initial Transformation Gain Share Threshold for a standard 36-month procurement period across each product category in scope including but not limited to CommsAssure Voice, CommsAssure Data, CommsMobilise and CommsConnect. If we have failed to achieve the Initial Transformation Gain Share Threshold no Gain Share will be payable by you to us.
- 3.3 **Physical Transformation Services Alignment of Interests:** We will use reasonable endeavours to implement the transformation roadmap agreed with you in your Application and any supporting Statement of Works in a timely and accurate manner and provide you with a transformation outcomes report within 60 days of substantial completion of your physical transformation works. You will pay us a Gain Share calculated as 20% of the savings delivered by us over and above the Physical Transformation Gain Share Threshold for a standard 36-month procurement period across each product category in scope including but not limited to CommsAssure Voice, CommsAssure Data, CommsMobilise and CommsConnect. If we have failed to achieve the Physical Transformation Gain Share Threshold no Gain Share will be payable by you to us.
- 3.4 **Optimisation Services:** During fixed length Agreements, we will provide you with proactive Optimisation Services including making recommendations on rationalisation of unused and underused Services, Software, Maintenance and/or Equipment to ensure you are not paying for items you do not need, and optimisation of active Services, Software, Maintenance and/or Equipment to ensure you maximise value for money. You acknowledge that approval of Services, Software, Maintenance and/or Equipment for rationalisation and optimisation rests with you, and that we will be reliant upon you checking to ensure rationalisation or optimisation does not impact delivery and to agree an Effective Gain Date for implementation by us, that proactive Optimisation Services within a fixed length Agreement are of material commercial benefit to you and that your acceptance of proactive Optimisation Services will trigger renewal of the Fixed Term in relation to any active Services, Software, Maintenance and/or Equipment benefiting from the proactive Optimisation Services for the same duration as the initial Fixed Term from the Effective Gain Date.
- 3.5 **Proactive Price Reductions:** During fixed length Agreements, we will use reasonable endeavours to negotiate Proactive Price Reductions which may include improvements to pricing, value and inclusions for active Services, Software, Maintenance and/or Equipment. Where a Proactive Price Reduction has been negotiated on your behalf you will be notified together with an Effective Gain Date for the implementation by us of the Proactive Price Reduction, together with an option to opt out and remain on your current pricing. You acknowledge that Proactive Price Reductions within a fixed length Agreement are of material commercial benefit to you and that your acceptance of Proactive Price Reductions will trigger renewal of the Fixed Term in relation to any active Services, Software, Maintenance and/or Equipment benefiting from Proactive Price Reductions for the same duration as the initial Fixed Term from the Effective Gain Date.
- 3.6 **Optimisation Services Alignment of Interests:** We will use reasonable endeavours to proactively deliver Services, Software, Maintenance and/or Equipment value improvement including but not limited to improving your Services, Software, Maintenance and/or Equipment quality, features, benefits and inclusions, optimising your Services, Software, Maintenance and/or Equipment adoption to deliver positive commercial outcomes for your business, and proactively reducing Services, Software, Maintenance and/or Equipment costs over the term of the Agreement. You will pay us a Gain Share calculated as 20% of the value improvements delivered by us over and above the Optimisation Gain Share Threshold for a rolling 12-month measurement period across each product category in scope including but not limited to CommsAssure Voice, CommsAssure Data, CommsMobilise and CommsConnect. If we have failed to achieve the Optimisation Gain Share Threshold no Gain Share will be payable by you to us.
- 3.7 **Business Connectivity Transformation and Optimisation Outcomes Reporting:** Unless otherwise agreed by the parties in writing we will provide you with a business connectivity transformation outcomes report within 60 days of substantial completion of any physical transformation works summarising the key outcomes delivered including any actual versus projected savings achieved across each product category in scope including but not limited to CommsAssure Voice, CommsAssure Data, CommsMobilise and CommsConnect. Your business connectivity transformation outcomes report will establish a new baseline for reporting on subsequent optimisation and/or transformation outcomes. Thereafter, unless otherwise agreed in writing by the parties we will provide you with ongoing quarterly business connectivity optimisation outcomes reports summarising the key initiatives completed and planned, the value improvement outcomes delivered, any optimisation gain share payable and new baseline established for reporting across each product category in scope including but not limited to CommsAssure Voice, CommsAssure Data, CommsMobilise and CommsConnect.

- 3.8 **Annual Business Connectivity Assessment:** We will use reasonable endeavours to provide you with one annual business connectivity assessment without charge including surveying key stakeholders to assess your business connectivity satisfaction levels, needs and wants, and updating your high-level roadmap and cost projections for moving towards your next optimal solution. Where no business case for physical transformation has been agreed, we will continue to provide ongoing optimisation services. Where a business case has been agreed for physical transformation we will agree and implement the most appropriate initial transformation services to support your decision making.
- 4. COMMERCIAL FLEXIBILITY AND WAIVER OF EARLY CANCELLATION FEES**
- 4.1 **Application of Optimisation Services and Proactive Price Reductions:** We will use reasonable endeavours to ensure that the application of Optimisation Services and/or Proactive Price Reductions for Services, Software, Maintenance and/or Equipment that are being maintained either does not trigger Early Cancellation Fees, or where Early Cancellation Fees may be incurred that the commercial benefit of acting has been accurately modelled with the optimal payback period for you and that you have given approval to proceed prior to the Effective Gain Date.
- 4.2 **CommsAssure Voice Services, CommsAssure Data Services and CommsAssure Maintenance Services Commercial Flexibility:** If during any fixed length Agreement we recommend proactive rationalisation or optimisation of a CommsAssure Voice Service or CommsAssure Data Service or related CommsAssure Maintenance Services, or you cease trading at a Site and are not opening or expanding a new or replacement Site to which CommsAssure Voice Services, CommsAssure Data Services or CommsAssure Maintenance Services could reasonably be transferred, or you no longer have any need to use a CommsAssure Voice Service, CommsAssure Data Service or CommsAssure Maintenance Service or equivalent or similar services due to reduced call or utilisation volumes, business activity or usage patterns and there is no need to for that Service or Maintenance to be replaced with new or alternative services or maintenance performing an equivalent or similar function, we will waive the applicable Early Cancellation Fees otherwise due under Clause 16.4(e) of the SFOA for that Service or Maintenance and will use reasonable endeavours to mitigate any fees due to the Supplier of that Service or Maintenance as a result of cancellation under Clause 16.4(c) as specified in the Critical Information Summary and/or Service Schedule or otherwise notified to you by us for that Service or Maintenance.
- 4.3 **CommsMobilise Services and CommsMobilise Maintenance Commercial Flexibility:** If during any length Agreement we recommend proactive rationalisation or optimisation of a CommsMobilise Service or CommsMobilise Maintenance, or the user of a CommsMobilise Service or CommsMobilise Maintenance ceases employment with you and you approve porting of that service from your account with us or our nominated Supplier, or you no longer have any need to use a CommsMobilise Service or CommsMobilise Maintenance or equivalent or similar services or maintenance due to reduced call or utilisation volumes, business activity or usage patterns and there is no need to for that Service or Maintenance to be replaced with new or alternative services or maintenance performing an equivalent or similar function, we will waive the applicable Early Cancellation Fees otherwise due under Clause 16.4(e) of the SFOA for that Service or Maintenance and will use reasonable endeavours to mitigate any fees due to the Supplier of that Service or Maintenance as a result of cancellation under Clause 16.4(c) as specified in the Critical Information Summary and/or Service Schedule or otherwise notified to you by us for that Service or Maintenance.
- 4.4 **CommsConnect Services, Software and CommsConnect Maintenance Commercial Flexibility:** If during any fixed length Agreement we recommend proactive rationalisation or optimisation of a CommsConnect Service, Software or CommsConnect Maintenance, or you no longer have any need to use a CommsConnect Service, Software or CommsConnect Maintenance or equivalent or similar services or maintenance due to reduced call or utilisation volumes, business activity or usage patterns and there is no need to for that Service, Software or Maintenance to be replaced with new or alternative services, software or maintenance performing an equivalent or similar function, we will waive the applicable Early Cancellation Fees otherwise due under Clause 16.4(e) of the SFOA for that Service, Software or Maintenance and will use reasonable endeavours to mitigate any fees due to the Supplier of that Service, Software or Maintenance as a result of cancellation under Clause 16.4(c) as specified in the Critical Information Summary and/or Service Schedule or otherwise notified to you by us for that Service, Software or Maintenance.
- 5. CHARGES AND PAYMENT**
- 5.1 **Payment:** You must pay the charges for the provision of Adaptive Connectivity as a Service inclusive of any charges for Services, Equipment, Software and/or Maintenance at the relevant rates as notified to you from time to time, as well as any other charges incurred by you in accordance with this Agreement.
- 5.2 **Invoicing:** We will usually invoice you monthly for charges due under this Agreement at the relevant rates notified to you from time to time. Our first invoice will usually be issued either in the month that we commence provisioning Adaptive Connectivity as a Service to you or, in our discretion, the following month. We may vary invoice frequency at our discretion. We may issue interim invoices. We may bill you more often if you exceed your spend limit.
- 5.3 **Method of Billing:** Unless otherwise expressly stated in this SFOA, we will usually bill you in advance for periodic charges, connection and service fees (where applicable) and in arrears for usage charges, although this may vary in certain cases. We will usually endeavor to bill you within the next normal billing period for charges billed in arrears, but we reserve the right to bill you for those charges in later billing periods. As per 8.2.2 of ACIF CS42 - Industry Code - Billing, we will not bill CommsAssure Voice or CommsMobilise charges older than 190 days from the date the charge was incurred by you.
- 5.4 **Supplier Charges:** Wholesale Supplier charges will usually be billed to you by us. We may pass on any charges a Supplier charges to us (including increases and special or one-off charges). You will pay us any charge which any other Supplier or other person renders to us:
- (a) if you approach that other Supplier or person directly, or otherwise than through us; or
 - (b) for connection or initiation of any Services, Software, Maintenance and/or Equipment or for cancellation of any Services, Software, Maintenance and/or Equipment.
- 5.5 **Billing from Agency Suppliers, Retail Suppliers and Other Suppliers:** If you access services offered by an Agency Supplier, Retail Supplier or another supplier, you will be billed by that supplier for charges you incur unless we have a separate arrangement in place for the supplier to charge us directly, in which case we will pass on the charges to you in accordance with Clause 5.
- 5.6 **Evidence of Charges:** Your invoice will be calculated with reference to data recorded by us and our Suppliers. Our records are sufficient evidence of amounts payable by you unless shown to be incorrect.
- 5.7 **No Deduction or Set Off:** You must pay all charges without any set off, counter claim or deduction. We may set off any amount payable to you against any amount payable by you to us.

- 5.8 **Time for Payment:** All charges are due and payable by the due date shown on the invoice. Payment must be made by the due date in full by direct debit from your bank account, electronic funds transfer from your bank account, credit card (inclusive of any applicable merchant fees advised from time to time), cheque or any other method permitted by us.
- 5.9 **Direct Debits:** When available, we may debit amounts directly from your nominated bank or credit card account as they become owing where you have chosen that method of payment. In any event, if you have provided your bank account or credit card details, where amounts remain outstanding 30 days after the date of an invoice we may debit those amounts from your nominated bank or credit card account without further notice unless we have received written notice from you of a bona fide dispute of those amounts. If a direct debit fails or is rejected, we reserve the right to pass on any charges that we may incur due to the failure or rejection.
- 5.10 **Late Payment Charges:** If you do not pay to us any part of the charges by the due date on any invoice, we may impose a late payment charge.
- 5.11 **Costs Incurred in Recovery of Overdue Amounts:** If we incur costs in recovering overdue amounts from you, including (without limitation) mercantile agents' costs, disconnection of services costs, costs incurred in commencing legal action such as service fees and search fees, we reserve the right to recover all these amounts from you in addition to the overdue amounts.
- 5.12 **Interest:** We reserve the right to charge interest on any part of the charges not paid to us by the due date. Where amounts remain outstanding 30 days after the date of an invoice interest, calculated daily, will be charged from the due date until payment at a rate of 5% above our prime lenders overdraft rate published on the first working day of each calendar month.
- 5.13 **Suspension:** We reserve the right to suspend provision of Services, Equipment, Software and/or Maintenance to you, where charges owing to us or any amount owing remains outstanding 45 days after the date of an invoice unless we have received written notice from you of a bona fide dispute of those charges. If we suspend or terminate the Services, Equipment, Software and/or Maintenance for unpaid charges or any other reason, subsequent reconnection may incur a reconnection fee.
- 5.14 **GST and Other Taxes:** Unless expressly stated otherwise, all charges for the Adaptive Connectivity as a Service are exclusive of government taxes, duties (including stamp duty), imposts or levies, which will be your responsibility and will be itemised on your invoice. Unless expressly stated otherwise, all fees, charges and other amounts payable (and all quotes or proposals given) under or in accordance with the terms of this SFOA including all charges for Adaptive Connectivity as a Service (including Services, Equipment, Software, Maintenance, Gain Share, moves adds and changes fees, repair fees, late payment charges, early termination charges, reconnection fees, installation costs) are exclusive of GST and you must pay to us in addition to the charges an amount equal to any GST payable on the supply of Adaptive Connectivity as a Service. That additional amount is payable at the same time as any part of the charges for Adaptive Connectivity as a Service is payable. We will issue a tax invoice to you for the supply of Adaptive Connectivity as a Service at or before that time.
- 5.15 **Unclaimed Amounts:** If your account is terminated and monies are owed to you by us, we will notify you of these amounts. In the event you do not claim those monies within 3 months of being notified we will retain the money and you agree that you will have no further claim in relation to those monies.
- 6. SECURITY DEPOSIT AND CREDIT LIMITS**
- 6.1 **Security Deposit:** We may require you to lodge a security deposit as a condition of us providing Adaptive Connectivity as a Service to you. You authorise us to deduct from that security deposit any amounts remaining owing to us 30 days after the date of an invoice. The amount of the security deposit will be no greater than the credit limit described in Clause 6.2.
- 6.2 **Credit Limit:** We may from time to time set a credit limit for the provision of Adaptive Connectivity as a Service to you. You will be notified of this credit limit and any variation thereof.
- 6.3 **Barring:** You acknowledge and agree that we may bar provision of CommsAssure Voice Services, CommsAssure Data Services, CommsMobilise Services and/or CommsConnect Services or other Services upon reasonable verbal or written notice to you (including transmitting the notice to your email address) where your unbilled calls or usage charges exceed your credit limit with us, or we become aware of unusual calling and/or usage patterns when compared with your previous account activity for that Service, or we have reasonable grounds for believing that you represent a credit risk in relation to the Service.
- 6.4 **Equipment Tampering and Service Fraud:** We will not be responsible for any equipment tampering or service fraud. Should you have any questions in relation to steps which may be taken to reduce the potential risk of fraud in relation to a Service or Equipment, please contact us and we will endeavour to provide such information or direct you to an appropriate source of information.
- 7. PERIOD OF AGREEMENT**
- 7.1 **Commencement of Agreement:** This Agreement starts when you sign, submit or otherwise make an initial Application to us, or when you first access our Services, Equipment, Software and/or Maintenance and continues until terminated. If the Agreement is a fixed length Agreement, the initial Fixed Term of the Agreement will commence from date you access substantially all of the Services, Equipment, Software and/or Maintenance specified in the initial Application.
- 7.2 **Commencement of Services:** The provision of Services commences when your accounts are transferred from another supplier to us or our nominated Supplier, and/or upon completion of installation by us or our nominated Supplier of any necessary Services and/or Supplier Equipment.
- 7.3 **Non-Fixed Length Agreements:** If the Agreement is a non-fixed length Agreement we will provide the service to you in accordance with the Agreement until all of the Services, Equipment, Software and/or Maintenance are cancelled in accordance with Clause 16.1 or 16.2.
- 7.4 **Fixed-length Agreements:** If the Agreement is a fixed length agreement it will continue for the term of the Agreement or until it is terminated in accordance with Clause 16.1 or 16.2.
- 7.5 **Extension of Agreements:** The term of the Agreement may be extended or varied by our acceptance of subsequent Applications from you or through your acceptance of Proactive Price Reductions or Optimisation Services from us. The term of the Agreement will extend to match the latest Fixed Term expiry date for any Services, Equipment, Software and/or Maintenance Services provided by us under the Agreement. You acknowledge that your acceptance of Proactive Price Reductions or Optimisation Services under a fixed length Agreement will trigger renewal of the Fixed Term in relation to any active Services, Software, Maintenance and/or Equipment benefiting from Proactive Price Reductions or Optimisation Services for the same duration as the initial Fixed Term from the Effective Gain Date.

7.6 **Conversion to Fixed Length Agreements:** Where we are providing you with three or more Services nominated through separate Applications under a non-fixed length Agreement we may request the terms of supply convert to an appropriate fixed length agreement covering all of the Services, Equipment, Software and/or Maintenance Services. Your consent to this request will not be unreasonably withheld.

7.7 **Expiry of Fixed Length Agreements:** If the Agreement is a fixed-length Agreement and neither you nor we cancel the service at the end of the Fixed Term the Agreement becomes a non-fixed length Agreement and we will continue to supply the Service to you on a month to month basis in accordance with the Agreement. If you do not wish to continue to use the Service on a month to month basis after the end of the Fixed Term of your Agreement you must inform us, in accordance with Clause 16.1 below, by giving us 30 days' notice in writing, before the end of the Fixed Term, that you wish to cancel the Agreement at the end of the Fixed Term. We will not be able to automatically renew a fixed length Agreement upon expiry without your consent.

8. ORDERING FROM SUPPLIERS

8.1 **Wholesale Suppliers:** By submitting the relevant Application you have provided us with the necessary Wholesale Supplier Client Authorisation to order in our name and install, manage and maintain on your behalf from Wholesale Suppliers the Services, Equipment, Software and/or Maintenance Services specified in that Application.

8.2 **Agency Suppliers:** By submitting the relevant Application you have provided us with the necessary Agency Supplier Client Authorisation to order in your name and install, manage and maintain on your behalf from Agency Suppliers the Services, Equipment, Software and/or Maintenance Services specified in that Application.

8.3 **Retail Suppliers:** By submitting the relevant Application you have provided us with the necessary Retail Supplier Client Authorisation to install, manage and maintain on your behalf from Retail Suppliers the Services, Equipment, Software and/or Maintenance Services specified in that Application that you have ordered directly.

9. TRANSFER OF YOUR SERVICES TO US

9.1 **Changing Your Current Arrangements:** If in providing the Services we need to change your arrangements with your current Supplier, then we will do so in accordance with this Clause 9.

9.2 **Transfer to Us:** You authorise us to sign on your behalf and in your name forms of authority to your current Supplier to transfer your Services into our name. You agree to give written instructions to your current Supplier to transfer your Services from your name to ours if we so request. You will remain responsible for all amounts owing to your current Supplier for any services they supply, or have supplied, to you.

9.3 **Credits:** If your previous Supplier credits us with any amount concerning services provided to you before the date of transfer, we will credit that amount to your account.

9.4 **Charges for Transferred Services:** If your previous Supplier raises with us a proper charge relating to a service it provided to you before the commencement of Services under Clause 7.2, we will advise you accordingly, and you must pay your previous Supplier that amount. If you dispute the amount claimed, you must notify us in writing.

9.5 **Supplier Indemnity:** We will not accept any liability for any amounts owing by you to a Supplier or other person. You indemnify us against any claim made by a Supplier or other person against us in relation to any such amounts.

10. TRANSFER OF SERVICES FROM US TO ANOTHER SUPPLIER

10.1 **Transfer:** If you (or a Supplier acting with your authority) ask us to transfer any of the Services to another Supplier, then you remain liable to us for any amount payable in relation to the supply of the Services up to the date on which we transfer those services to another Supplier. You will immediately pay us that amount on receipt of our invoice.

10.2 **Termination of Services:** The provision of Services ceases when we transfer your Services to another Supplier.

10.3 **Billing:** We will endeavour to invoice you for Services which you transfer to another Supplier and in relation to which you have incurred charges, within the next normal billing period. If after that we become aware of other proper charges (including fees payable to any other Supplier) for those Services up to the date of transfer, or we resolve any dispute so that any liability relating to those Services is quantified, then you will immediately pay us all such amounts on receipt of our invoice.

10.4 **Credits:** We will credit you with any amount credited to us by another Supplier for those Services provided up to the date of transfer.

11. BUSINESS INFORMATION AND CREDIT CHECKS

11.1 **Business Information:** We may collect Business Information about your business including but not limited to your electronic contact details such as email.

11.2 **Agreement to Use:** You acknowledge and agree that if you do not supply the information we request on our Application, we may not be able to provide Adaptive Connectivity as a Service to you and that we will use your Business Information:

- a. to assess any Application by you for Services, Equipment, Software and/or Maintenance Services to be provided by us including performing credit checks on you;
- b. to collect payments that are overdue in respect of Adaptive Connectivity as a Service including but not limited to Services, Equipment, Software and/or Maintenance Services provided by us;
- c. to provide Adaptive Connectivity as a Service to you (including the investigation or resolution of disputes relating to any Services, Equipment, Software and/or Maintenance Services provided to you); and
- d. we may use your Business Information to send commercial electronic messages, as defined under the Spam Act 2003 (Cth).

11.3 **Agreement to Limited Disclosure:** You acknowledge and agree that we will also disclose or transfer your Business Information:

- a. to other Suppliers for the purpose of enabling us to provide Adaptive Connectivity as a Service to you (including the investigation and resolution of disputes or complaints concerning the provision of the Services, Equipment, Software and/or Maintenance Services);
- b. to other Suppliers about your account, including particulars of calls and call charges;
- c. to government agencies or individuals appointed by a government (including the Telecommunications Industry Ombudsman and ACMA) responsible for the investigation and resolution of disputes or complaints concerning your use of the Services, Equipment, Software and/or Maintenance Services for the purpose of enabling investigation and resolution of those disputes or complaints.

- 11.4 **Required Disclosure:** You acknowledge that in certain circumstances, we may be permitted or required by applicable laws to use or disclose Business Information about you, including your name, addresses, service numbers and other details. Such uses or disclosures may include, without limitation:
- disclosures to the operator of the Integrated Public Number Database (IPND);
 - disclosures to law enforcement agencies for purposes relating to the enforcement of criminal and other laws;
 - uses or disclosures to assist in the recovery of lost or stolen equipment;
 - uses or disclosures in accordance with orders made by a court or if required or authorised by law;
 - uses or disclosures to lessen or prevent serious threats to an individual's life, health or safety, or to public health or safety; or
 - uses to assist in our internal investigations into suspected fraud or other unlawful activities.
- 11.5 **Storage of Business Information:** Unless you ask us not to, you acknowledge that any calls you make to our client support centres, the content of those calls, and any emails that you send us, may be monitored and/or recorded for quality assessment, administration and/or client information purposes.
- 11.6 **Access to Business Information:** We will provide you with access to most Business Information that we have about you, but sometimes that will not be possible, in which case we will tell you why. If you want to find out what information we have about you contact our privacy officer and/or client service team.
- 11.7 **Accuracy of Business Information:** If you think that any Business Information we hold about you is not accurate, complete and up-to-date, you may request us to correct that information. We will take reasonable steps to correct such Business Information unless we disagree with you about whether the information is accurate, complete and up-to-date.
- 12. YOUR OBLIGATIONS**
- 12.1 **Compliance:** You will ensure that you comply at all times with all laws and obligations, including license conditions, applicable to the Services, Equipment, Software and/or Maintenance Services, and their use.
- 12.2 **Prohibited Network Connections:** You must use reasonable endeavours to ensure that you do not establish, maintain or permit a connection to another person's network, equipment or cabling that is prohibited by or does not meet the requirements of any technical or interconnection standards made by the ACMA under the Act unless such connection is made in accordance with a connection permit issued under the Act or connection rules made under the Act where the party establishing, maintaining or permitting the connection (as the case may be) is subject to such connection rules.
- 12.3 **No Resupply:** You must not resupply the Services, Equipment, Software, and/or Maintenance to anyone else without our prior written consent, which we may withhold in our absolute discretion.
- 12.4 **Liability for Use:** You are liable to us for all charges in relation to the Adaptive Connectivity as a Service including but not limited to Services, Equipment, Software, and/or Maintenance Services whether or not you authorised the use of that Service or any and all components of Adaptive Connectivity as a Service by you, another person or organisation.
- 12.5 **Billing Contact Details:** If you change your billing address, phone number email or other billing contact details, you must notify us before the end of your billing period. Please contact our client service team if you do not know when the end of your billing period is.
- 12.6 **Illegal Use:** You must not use the Services, Equipment, Software, and/or Maintenance Services or any and all components of Adaptive Connectivity as a Service in such a manner that may:
- menace or harass any person or intentionally cause damage or injury to any person or property or incite hatred against any person;
 - expose us or you to the risk of any legal or administrative action including prosecution under any law or which would bring either of us into disrepute;
 - involve the publication of material that is illegal or defamatory or which may promote others to engage in such acts;
 - damage our, or our Supplier's network or systems or cause the quality of the Services to be impaired;
 - infringe any person's intellectual property, personal (as set out in Privacy Act), or other rights; or
 - be unlawful.
- 12.7 **Acceptable Use and Fair Use:** You agree to comply with the Acceptable Use Policies and/or Fair Use Policies of us and our Suppliers as set out on our website or our Suppliers website or otherwise advised to you from time to time.
- 12.8 **Agency Supplier SFOA:** Where applicable you agree to comply with the Standard Form of Agreement or any other or any other equivalent agreement of our nominated Agency Supplier notified to you from time to time in relation to Services, Software, Maintenance and/or Equipment for which you have provided us an Agency Supplier Client Authorisation.
- 12.9 **Spam:** You must not use the Services, Equipment or Software to send unsolicited information to third parties in contravention of the Spam Act.
- 12.10 **Qualified Personnel:** You will use suitably experienced and authorised personnel in performing your obligations under this Agreement.
- 13. SERVICE NUMBERS, CLI & IPND**
- 13.1 **Service Numbers:** You acknowledge that the Government owns Service Numbers such as telephone numbers and mobile numbers and that:
- the Numbering Plan sets out rules for issuing, transferring and changing Service Numbers. You and we must comply with the Numbering Plan. Information about your rights of use of your Service Numbers may be obtained by calling us;
 - you do not own or have any legal interest or goodwill in any Service Number or PIN issued to you;
 - you are entitled to continue to use any Service Number we or our Supplier issues to you except in circumstances where the Number Plan allows us to recover the Service Number from you; and
 - you can transfer a Service Number or PIN to another person if you get our consent first.
- 13.2 **Caller Line Identification (CLI):** If you do not bar CLI in respect of calls made from your equipment then you agree that when a call is made or any text message sent from your equipment your Service Number may be sent automatically to the equipment of the called party. You agree that if a party calling your equipment has not barred CLI in respect of a call made from their equipment then the Service Number of the calling party may be displayed on the screen of your equipment at the time the call is made.

13.3 **Integrated Public Number Database (IPND):** We, like other Suppliers, are required by law to provide your name, address, Service Number and other public number customer details to a database known as the IPND. This applies to all clients, including unlisted clients. However, unlisted service information is marked and controlled in the IPND so that it is only provided for an approved purpose to those approved data users such as directory information organisations or for the assistance of emergency service organisations or law enforcement agencies. You must contact us if you wish to have your IPND data altered in any way.

14. SERVICE NUMBER PORTABILITY

14.1 **Transfer of Service Numbers:** Subject to Clause 13, if your Service Number is capable of being transferred, you may transfer it from your current Supplier to us if that Service Number is declared portable under the Numbering Plan and no exemption has been granted by the ACMA.

14.2 **Change of Services:** If in providing CommsAssure Voice Services or CommsMobilise Services to you we need to change your arrangements with your current Supplier, we will do so in accordance with Clause 13 and this Clause 14. By completing the Local Number Portability Client Authorisation (LNP Client Authorisation) and/or Mobile Number Portability Client Authorisation (MNP Client Authorisation) which forms part of your Application, you acknowledge and agree:

- a. to your current Supplier transferring to us or our Supplier your Service Number;
- b. that we are only transferring your Service Number not your voice and/or mobile service. This means you may lose value added services and other features provided by your current Supplier. When you are connected to the CommsAssure Voice Services and/or CommsMobilise Services you will use the CommsAssure Voice Services and/or CommsMobilise Services specified in your Application, which may be different to the service and features that you had with your current Supplier;
- c. that by transferring your Service Number, the service and/or any features associated with that Service Number may be disconnected by your current Supplier and result in finalisation of your account for those services;
- d. that there may be costs and obligations associated with transferring your Service Number away from your current Supplier. You may have an ongoing contract with your current Supplier which requires the payment of cancellation and/or termination fees to your current Supplier if you transfer to us;
- e. that your current Supplier may or may not disconnect your existing service and/or value added services;
- f. if you are porting between 3G, 4G, 5G or other mobile platforms you may need to purchase new handset and/or CommsMobilise Equipment;
- g. if you intend to use your existing handset and/or mobile Equipment, you may need to get it unlocked or reprogrammed prior to porting;
- h. that you may need to purchase new CommsMobilise Equipment to access CommsMobilise Services;
- i. if you are transferring between different voice service platforms, you may need to purchase certain CommsAssure Voice Equipment and/or Software and/or CommsAssure Data Equipment;
- j. that you may need to purchase approved CommsAssure Voice Equipment to access the CommsAssure Voice Service;
- k. that you can only withdraw your LNP Client Authorisation and/or MNP Client Authorisation prior to the port cutover notification being received by us from

your current Supplier. Withdrawing your LNP Authorisation and/or MNP Client Authorisation does not change your contractual obligations to us under your Application and this SFOA;

- l. that we do not warrant that we can transfer your Service Number from your current Supplier. Your current Supplier may reject the request to transfer the Service Number, if the information you provide is incorrect or does not match the data held by your current Supplier. In this case, we reserve the right and you authorise us to correct the information and resubmit the request to transfer the Service Number or dispute the rejection with your current Supplier;
- m. that if your Service Number cannot be transferred to us then you may accept a new Service Number from us;
- n. that your authorisation to transfer your Service Number to the CommsAssure Voice Services and/or CommsMobilise Services is valid for 90 days from the date of the LNP Authorisation and/or MNP Authorisation;
- o. that in the event of a withdrawal or reversal to your current Supplier, we are not responsible for any period of outage of the service or features or your current service or any value added service provided by your current Supplier, do not warrant that your Service Number will be transferred to us within any specified timeframe; and to the extent permitted by law, including statutory warranties that apply under the Trade Practices Act, are not liable to you or any person claiming through you for any damage, loss, costs or expenses or other liability in contract, tort, or otherwise direct or indirect, for or in relation to the transfer of the Service Number(s), withdrawal or reversal, including a negligent act or omission by us;
- p. that if you wish to transfer your Service Number from us to another Supplier then you must contact that other Supplier to implement the transfer; and
- q. that we reserve the right to charge for transferring your Service Number to and from us.

15. EQUIPMENT SUPPLIED TO YOU

15.1 **Purchase Equipment:** We may provide you with the Purchase Equipment selected in your Application. You acknowledge the Purchase Equipment may be either new or refurbished. Purchase Equipment is and remains our property and you hold it for us until you have paid for it in full in cleared funds. If stated in your Application, you will remain liable for any residual amount owing to us at the expiry of the Fixed Term and ownership of the Purchase Equipment will not pass to you until this residual amount is paid in accordance with your Application. If you damage or lose any Purchase Equipment before you have paid for it in full, you will still be required to pay us for the full price of the Purchase Equipment. You must not do anything to give rise to an adverse claim to our rights in or ownership of the Purchase Equipment. You cannot sell or use the Purchase Equipment for a loan or deal with it in any way until you own the Purchase Equipment.

15.2 **Purchase Equipment Charges:** You agree to pay the Purchase Equipment Charges stated in your Application, which may be a one-off charge or a series of monthly charges over a Fixed Term, with or without a residual payment. You agree that we may sell, transfer or assign our rights this Clause 15 in relation to the Purchase Equipment and that your consent to such dealing is not required. Termination of any other part of this Agreement does not constitute or effect a termination of this Purchase Equipment Agreement. If the Services Agreement is terminated you must continue paying the Purchase Equipment Charge at the same charges specified in your Application, in accordance with the terms of this SFOA, for the remainder of the Fixed Term.

- 15.3 **Rental Equipment:** We may provide you with the Rental Equipment nominated in your Application and/or any Rental Agreement entered into by the parties. You acknowledge the Rental Equipment may be either new or refurbished. Rental Equipment is and remains our or our nominated Suppliers property and you hold it for us or our Supplier until you have returned it in accordance with our instructions. If you damage or lose any Rental Equipment you will be required to pay us for the full replacement cost of the Rental Equipment. You must not do anything to give rise to an adverse claim to our or our Suppliers rights in or ownership of the Rental Equipment. You cannot sell or use the Rental Equipment for a loan or deal with it in any way.
- 15.4 **Rental Equipment Charges:** You agree to pay the Rental Equipment Charges stated in your Application and/or any Rental Agreement entered into by the parties, which will normally be a series monthly charges for as long as you are using or have possession of the Rental Equipment. You agree that we may sell, transfer or assign our rights this Clause 15 in relation to the Rental Equipment and that your consent to such dealing is not required. Termination of any other part of this Agreement does not constitute or effect a termination of the Rental Agreement. If the Services Agreement is terminated you must continue paying the Rental Equipment Charge at the same charges specified in your Application, in accordance with the terms of this SFOA, for any minimum period specified in your Application and, unless otherwise agreed in writing under this SFOA and/or any Rental Agreement entered into by the parties, continuing at the same monthly charge until the Rental Equipment is returned to us or our Supplier.
- 15.5 **Supplier Equipment:** In order to access CommsAssure Voice Services, CommsAssure Data Services, CommsMobilise Services or CommsConnect Services we or our Suppliers may provide you with Supplier Equipment. Supplier Equipment is and remains the property of us or our nominated Supplier and is only to be used by you in connection with the provision of the relevant CommsAssure Voice Services, CommsAssure Data Services, CommsMobilise Services or CommsConnect Services specified in your Application. We or our Supplier may change the Supplier Equipment at any time by giving you reasonable notice. The Supplier Equipment may also be subject to design rights or other rights. You must not copy or reproduce any part of the manuals or of the Supplier Equipment without our written permission. You must not do anything to give rise to an adverse claim to our or our Suppliers rights in or ownership of the Supplier Equipment. You cannot sell or use the Supplier Equipment for a loan or deal with it in any way.
- 15.6 **Risk:** Risk in any Equipment or Supplier Equipment provided by us or our Supplier to you passes on delivery to you at your nominated Site or address.
- 15.7 **Delivery and Installation:** You are responsible for all costs of delivery (as specified in the applicable Application, Statement of Works and/or Service Support Schedule and installation and for preparing the Site for installation. Our cost of installation may vary from the quotation price once we have physically inspected the Site. If requested by us, you will execute an acknowledgment of delivery in an acceptable form. Unless otherwise agreed by us Installation Charges are payable on Commencement of the Service.
- 15.8 **Configuration:** We will use reasonable endeavours to configure the Equipment or Supplier Equipment such that it works with your network based on the information supplied by you about your network. We will also endeavour to provide telephone support to assist you where possible. Local network configuration remains your responsibility. Changes to the configuration of the Equipment or Supplier Equipment after installation may be subject to a configuration charge as specified in the relevant Service Support Schedule. Changes made by you to the supplied configuration are at your risk and will not be supported by us.
- 15.9 **Software:** We will only provide you with Software which you have selected in your Application. We will not provide you with any Other Software in order to access and use the Equipment. You will be responsible for obtaining such Other Software necessary to access and use the Equipment, but you must first get our prior written permission.
- 15.10 **Maintenance:** We will only provide you with the Maintenance which you have selected in your Application. Unless nominated in your Application and/or Service Support Schedule we will not provide you with any Other Maintenance as part of the Equipment or Supplier Equipment and you are responsible for maintaining and repairing any Equipment or Supplier Equipment supplied by us or a Supplier outside of the scope of any Maintenance we have agreed to provide you. Where applicable you are responsible for complying with the manufacturer's instructions in relation to the use of the Equipment or Supplier Equipment. You indemnify us or our Supplier against any loss, damage, malfunction or failure to the Equipment or Supplier Equipment unless it is due to fair wear and tear.
- 15.11 **Interference:** You will ensure that any Equipment or Supplier Equipment supplied to you or facilities and connections used in providing the Services, are not altered, maintained, repaired or connected to or disconnected from any power source or line or other connection except by a person approved by us acting in accordance with our instructions.
- 15.12 **Physical and Remote Access:** We, or a person approved by us, may require access to your Site from time to time in connection with the provision and maintenance of Equipment, Supplier Equipment or Services, including the installation, replacement or modification of necessary telecommunications connection, facilities, wiring or cabling in order for you to receive the Equipment, Supplier Equipment or Services. If we are providing you with Maintenance we may require access to your equipment and/or network components as reasonably required in order to establish and maintain remote access required in order to detect, diagnose and/or resolve any issues with the Equipment, Supplier Equipment or Services. If you do not own the Site, you must obtain the owner's permission for access and warrant to us that you have such permission. You indemnify us, or any contractor, agent or representative approved by us and our Supplier against a claim by the owner of the Site in relation to such entry on the Site. If you do not provide access as we reasonably request, we may limit, suspend or cancel the Maintenance, Equipment, Supplier Equipment or Services. We reserve the right to charge you, at our standard rates, should we, or our Suppliers, not be able to access your Site, equipment and/or network components at the agreed times.
- 15.13 **Security:** You must keep the Equipment and/or Supplier Equipment under your control or the control of your employees and arrange for the Equipment and/or Supplier Equipment to be properly serviced and secured so that it is at all times in good working condition and remains subject to any applicable warranty. The Equipment and/or Supplier Equipment must be kept at the Site address indicated in your Application, or at such other place as we approve in writing. You must provide cyber security measures reasonably required to protect the Equipment and/or Supplier Equipment unless we have agreed in writing to provide such Services to you. You must notify us immediately in writing if the Equipment and/or Supplier Equipment is subject to unauthorised access, cyber-attack, lost, stolen, damaged or any person asserts any rights to the Equipment and/or Supplier Equipment.
- 15.14 **Electricity:** You must provide a stable electricity supply for the Equipment and/or Supplier Equipment at your Sites and will be responsible for any electricity charges or damage caused due to loss or instability of electricity supply to the Equipment and/or Supplier Equipment.

- 15.15 **Warranty:** The warranty period (if any) for each item of the Purchase Equipment and/or Software is detailed in your Application. Any warranty we provide you only covers the Purchase Equipment and/or Software and not anything else, including but not limited to, things attached to the Purchase Equipment or the wiring or cabling already at the Site. We will use reasonable efforts to transfer to you any manufacturer's warranty in the Purchase Equipment and/or Software, from the time title passes to you.
- 15.16 **Insurance:** Unless agreed otherwise in writing, you must insure the Purchase Equipment and/or Rental Equipment and/or Supplier Equipment and keep it insured for its full insurable value under an all risks insurance policy, take out and maintain an adequate level of public risk liability insurance in relation to the Purchase Equipment and/or Supplier Equipment and/or Rental Equipment and its use, take out each insurance policy with a reputable insurer in your name noting our interest as the owner of any Rental Equipment, and punctually pay all premiums on each insurance policy and not prejudice any policy. If we request you must provide us with adequate evidence of the insurance policies.
- 15.17 **Return:** On the termination of this Agreement for any reason, you must return any Equipment and/or Supplier Equipment to us or the relevant Supplier, or make it available for collection, in accordance with our instructions, unless title to the equipment has passed in accordance with Clause 15.2. If you fail to return the equipment or make it available for collection:
- if the Equipment is ours, we may recover the value of the Equipment, and the cost of recovering the Equipment, from you as a debt due; or
 - if the equipment is a Supplier's, you must indemnify us against any claims made by the Supplier in relation to the Supplier Equipment.
- 15.18 **SIM Cards:** The subscriber identity module (SIM Card) supplied with any CommsMobilise Service remains the property of us or the relevant Supplier at all times. We may ask you to return this SIM Card if you have been given a replacement or your CommsMobilise Service has been cancelled. You must inform us immediately if the SIM card is lost, stolen or damaged by calling our client service team. We will then disconnect or bar your connection (you will be responsible for all charges up to this time) until the SIM card is replaced or repaired. We may charge you a SIM replacement fee unless we were at fault.

16. TERMINATION CANCELLATION AND SUSPENSION

- 16.1 **Termination by Either Party:** Either of us may terminate the a non-fixed length Agreement by giving 90days' written notice to the other at any time. The notice to cancel Services, Software, Maintenance and/or Equipment will be effective on the date on which we receive that request.
- 16.2 **Termination, Suspension or Cancellation by Us:** We may terminate this Agreement or suspend, limit or cancel the provision of any Services, Software, Maintenance and/or Equipment by notice in writing to you if:
- you fail to pay any amount due under this SFOA by the due date, we give you notice requiring payment of that amount (which we may not give in respect of an amount which is genuinely disputed until we have investigated the dispute) and you fail to pay that amount in full within the specified number of days after we give you that notice;
 - you have breached any material provision of this SFOA;
 - you are declared bankrupt, where we are of the reasonable belief that we are unlikely to receive amounts due and payable by you;
 - a provisional liquidator, liquidator, receiver or any other administrator of your business or assets is appointed or you enter into any arrangement with your creditors or

any class of creditors, where we are of the reasonable belief that we are unlikely to receive amounts due and payable by you;

- we reasonably determine that you have failed our credit check requirements or that you are no longer credit worthy;
- we reasonably suspect you of fraud or attempted fraud; or
- you are in material breach of the Acceptable Use Policy or the Fair Use Policy of us or our Supplier.

16.3 Your Obligations Upon Termination of the Agreement:

Upon termination under Clause 16.1 or 16.2 you must:

- pay all charges incurred by you under this SFOA up to the time of termination which will become immediately due and owing upon termination;
- pay all outstanding amounts in a lump sum for any Purchase Equipment which you have not fully paid for at the date of termination;
- if we request and at our option, either immediately return all Rental or Supplier Equipment at your cost, or make such equipment available for our, or our Suppliers collection; and
- pay the applicable Early Cancellation Fees if any to us.

16.4 Early Cancellation Fees:

If you cancel Services, Software, Maintenance and/or Equipment or the Agreement is terminated under Clause 16.1 or 16.2 you will be liable to pay us within 30 days:

- any remaining Purchase Equipment Charges or Rental Equipment Charges payable for Equipment being cancelled;
- any remaining connection or installation fees payable for Services being cancelled;
- any fees due to us or the relevant Supplier as specified in the Critical Information Summary and/or Service Support Schedule for Services, Software or Maintenance being cancelled;
- any remaining Gain Share fees payable under Clause 3; and
- except to the extent Clause 4 applies, where Services, Software or Maintenance have not been replaced with new or alternative Services Software or Maintenance of equivalent value, the Early Cancellation Fee specified in the Application in relation to the Fixed Term as a percentage of the remaining periodic charges and/or service fees and/or estimated usage fees (based on average monthly usage fees billed for the twelve months immediately prior to early cancellation) due for that Service over the remainder of the Fixed Term specified in the Agreement.

17. LIMITATION OF LIABILITY

- 17.1 **Warranties:** To the maximum extent permitted by law, all terms, conditions, warranties, undertakings, inducements and representations, whether express or implied by legislation, the common law, equity, trade, custom or usage or otherwise relating to the provision by us of the Services, Software, Maintenance and/or Equipment, or any other equipment or otherwise in connection with this SFOA are expressly excluded.

- 17.2 **Limitation of Liability:** To the maximum extent permitted by law, we will not be liable in any way for any loss of profit, loss of savings or data or for any indirect or consequential loss, including any losses that may reasonably be supposed to have been in the contemplation of the parties (as at the date of the first supply of the Services, Software, Maintenance and/or Equipment) as a probable result of any act or omission, arising out of or in connection with the supply of any Services, Software, Maintenance and/or Equipment, any and all components of Adaptive Connectivity as a Service, or any other equipment under this SFOA or otherwise in connection with the relationship established by this SFOA, including any loss or damage caused by our negligence or any fundamental breach of this SFOA. Resupply: Subject to Clause 17.1 our liability for any breach of any term, condition, warranty or under any remedy implied by law which cannot be excluded will be limited at our option to the repair or re-supply of Services, Software, Maintenance and/or Equipment or the payment of the cost of having the Services, Software, Maintenance and/or Equipment re-supplied.
- 17.3 **No Liability:** To the maximum extent permitted by law our Suppliers have no liability to you in connection with this SFOA and we have no liability to you or to any other person for:
- acts or defaults of any Suppliers or other person;
 - faults or defects in Services, Software, Maintenance and/or Equipment we supply to you which are caused by or contributed to by your, or a third parties conduct or misuse; or
 - faults or defects that arise in services not provided under this SFOA (even if they are connected, with our consent, to Services which we have arranged under this SFOA) which are due to incompatibility with the Services, Equipment or Software, or any other equipment that we or our Suppliers provide to you.
18. **INDEMNITY**
- 18.1 **Your Indemnity:** You indemnify us and will keep us indemnified against any loss, cost, expense, damage or other liability (including legal costs on a solicitor/client basis) arising out of:
- your breach of this Agreement;
 - any claim or demand against us including for negligence by any person other than you, which arises from or relates to our supply of the Services, Software, Maintenance and/or Equipment, any and all components of Adaptive Connectivity as a Service, or any other services, software, maintenance and/or equipment;
 - any claim or demand including for negligence which you or any other person make against any of our Suppliers which arises from or relates to our supply of the Services, Software, Maintenance and/or Equipment, any and all components of Adaptive Connectivity as a Service, or any other services, software, maintenance and/or equipment;
 - any damage which you or your employees, agents or contractors cause to our, or our Suppliers network, equipment or other property;
 - the reproduction, broadcast, use, transmission, communication or making available of any material including data and information of any sort by you; or
 - any breach of a person's rights or defamation of a person or allegation of such breach or defamation involving the use of the Services, Software, Maintenance and/or Equipment, any and all components of Adaptive Connectivity as a Service, or any other equipment by you.
19. **CONFIDENTIALITY AND INTELLECTUAL PROPERTY**
- 19.1 **Intellectual Property:** We retain all Intellectual Property Rights in any information relating to Adaptive Connectivity as a Services including but limited to the design or operation of the Services, Software, Maintenance and/or Equipment, our websites, Client portals, proposals, reports, reporting tools and other technical and commercial information relating to the provision of the services ("Confidential Information").
- 19.2 **Confidential Information:** In connection with the Agreement either party may disclose or may have already disclosed, to the receiving party certain of its intellectual property, proprietary or confidential and other information and documents which the disclosing party does not generally make available to the public ("Confidential Information").
- 19.3 **Confidentiality:** Each party will keep the Confidential Information confidential, and agrees they will not allow any written or electronically recorded material to be copied or reproduced for any purpose other than fulfilling their obligations under the Agreement. Each party agrees not to copy, republish, frame, download, transmit, modify, rent, lease, loan, sell, assign, distribute, license, sublicense, reverse engineer, or create derivative works based on the Confidential Information except as expressly authorised in writing by the other party.
- 19.4 **Return on Termination:** On the termination of this Agreement for any reason, the receiving party will upon request return all Confidential Information to the disclosing party. If a party has destroyed all or any of the Confidential Information, then they will give the other party a written declaration accordingly.
- 19.5 **Surviving Obligations:** You will keep confidential the way we arrange Adaptive Connectivity as a Services under this Agreement, including our charges and discounts, and other financial information. You will not use information which you acquire from us for any purpose unauthorised in writing by us or in any manner which may cause us loss, whether by way of damage to our reputation, financial loss or otherwise.
- 19.6 **Our Marks:** Our trademarks, websites, Client portals, reporting tools, corporate names, trade names, domain names, logos, and service marks are our property. You may not use our marks without our prior written consent.
20. **SERVICE DELIVERY AND SERVICE LEVEL AGREEMENTS**
- 20.1 **Client Service Team:** We will provide you with access to the CommsChoice client service team using either the telephone number 1300 4 COMMS (1300 42 66 67) or any alternative telephone numbers advised to you by us or electronically via the CommsChoice Client portal accessed via secure login at www.commschoice.com.au or by email to service@commschoice.com.au to enable you to notify us of suspected outages, performance issues or change requests in relation to the Services.
- 20.2 **Service Levels:** We will use reasonable endeavours to ensure Services, Software, Maintenance and/or Equipment are delivered in accordance with the service levels and specifications documented in the relevant Critical Information Summary and the Service Support Schedule provided by us to you, and will promptly address suspected outages, performance issues or change requests in relation to the Services, Software, Maintenance and/or Equipment during CommsChoice client service team cover hours or product specific support hours.

- 20.3 **Client Service Manager:** We will assign a Client Service Manager to support your Services, Software, Maintenance and/or Equipment and will use reasonable endeavours to ensure you can liaise regularly with your Client Service Manager during Business Hours in respect of the provision and performance of the Services, Software, Maintenance and/or Equipment, billing and cost management, and developments in your requirements and the services offered by us and our Suppliers. A schedule of regular account meetings may be mutually agreed with your Client Service Manager and/or other CommsChoice representatives as appropriate to your business needs.
- 20.4 **Commercial Outcomes Reporting:** Where you have engaged us to provide cost savings projections and have completed a subsequent Application ordering Services, Software, Maintenance and/or Equipment based on those projections, we will use reasonable endeavours to report actual versus projected savings to you within 60 days of the deployment of substantially all Services, Software, Maintenance and/or Equipment detailed in that Application.
- 20.5 **Qualified Personnel:** We will use suitably experienced and authorised personnel in performing our obligations under this Agreement.

21. FORCE MAJEURE

- 21.1 **Force Majeure:** We are not liable for any delay in installing any Services, Software, Maintenance and/or Equipment or any aspects of Adaptive Connectivity as a Service, any delay in correcting any fault in any Services, Software, Maintenance and/or Equipment or any aspects of Adaptive Connectivity as a Service, failure or incorrect operation of any Services, Software, Maintenance and/or Equipment or any aspects of Adaptive Connectivity as a Service, or any other delay or default in performance under this SFOA if it is caused by any event beyond our reasonable and foreseeable control, including but not limited to war, accident, act of God, industrial action, embargo, delay or failure or default by any other Supplier. No party is entitled to terminate this SFOA in such circumstances.

22. ASSIGNMENT

- 22.1 **Your Assignment:** You must not assign, transfer or otherwise deal with any of your rights under this SFOA except with our prior written consent acting reasonably.
- 22.2 **Our Assignment:** We may upon notice, assign, transfer, sell or otherwise deal with our rights under this SFOA and or any components of Adaptive Connectivity as a Services and your consent is not required.

23. CARRIERS AND CARRIAGE SERVICE PROVIDERS

- 23.1 **Carriers and Carriage Service Providers:** You represent that you are not a carrier or a carriage service provider as those terms are defined in the Telecommunications Act. If you are or become a carrier or carriage service provider, you must promptly notify us of that fact and we may immediately terminate this Agreement by notice to you.

24. INFORMATION TECHNOLOGY SERVICE PROVIDERS

- 24.1 **Information Technology Service Providers:** You represent that you are not reselling or re supplying any element of Adaptive Connectivity as a Service except to the specific extent expressly authorised in writing by us or solely for internal resupply to Related Bodies Corporate. If you resell or re supply or make preparations to resell or resupply any element of Adaptive Connectivity as a Service except to the specific extent expressly authorised in writing by us or solely for internal resupply to Related Bodies Corporate, you must promptly notify us of that fact and we may immediately terminate this Agreement by notice to you.

25. GENERAL

- 25.1 **Authorised Employees:** You agree that if we need your consent to undertake certain actions, then provided we act in good faith we may rely upon the authority of any of your employees, who warrant to be authorised to provide consent on your behalf. On the date you sign, submit or otherwise make an Initial Application you must provide to us an authorised employee list, containing a list of your representatives who are authorised to submit Applications for and on your behalf and their specimen signatures and delegated authority levels. Where you have advised us in writing the identity and delegated authority level of your authorised employees and promptly notified us of any changes to authorised employee identify or delegated authority levels we will use reasonable endeavours to maintain an accurate record of this information in the Service Support Schedule to assist the CommsChoice client service team to act in accordance with your instructions.
- 25.2 **Accuracy of Information:** You warrant that you have provided full and accurate business information to us in connection with this Agreement and your Application and you have full power and authority to enter this Agreement and Application.
- 25.3 **Governing Law:** This Agreement is governed by the state laws of New South Wales and the federal laws of Australia.
- 25.4 **Entire Agreement:** This SFOA contains the whole understanding between us and supersedes all prior arrangements and understandings between us in connection with it.
- 25.5 **No Reliance:** You acknowledge that you enter into this SFOA entirely as a result of your own enquiries and that you do not rely on any statement, representation or promise by us or on our behalf not expressly set out in this SFOA.
- 25.6 **Release:** You accordingly release us and each of our officers, agents and advisers from all claims, suits and demands of every kind (including negligence) arising from the relationship of the parties concerning this SFOA before it was signed, and from the negotiations leading to it.
- 25.7 **Waiver:** The failure by either party to exercise any right or remedy under this SFOA in a timely manner does not constitute acceptance of the matter which gave rise to the right or remedy, nor that party's waiver of such right or remedy.
- 25.8 **Related Parties:** We may engage an agent, dealer or contractor to conduct any aspect of Services, Software, Maintenance and/or Equipment provision under this SFOA. Our performance of this SFOA may, at our discretion, be carried out by a related body corporate of ours or any other party arranged by us or a related body corporate and your obligations under this SFOA will be owed to us or that related body corporate or that other party, as relevant.
- 25.9 **Standard Form of Agreement:** These terms and conditions have been formulated under section 479 of the Telecommunications Act and filed with the Australian Communications Authority and will be referred to as the Standard Form of Agreement or SFOA.
- 25.10 **Enforceability:** Any provision in this SFOA which is invalid or unenforceable in any jurisdiction is to be read down for the purposes of that jurisdiction, if possible, so as to be valid and enforceable, and is otherwise capable of being severed to the extent of the invalidity or unenforceability, without affecting the remaining provisions of this SFOA or affecting the validity or enforceability of that provision in any other jurisdiction.

26. INTERPRETATION

- 26.1 **Headings:** Headings are for convenience only and do not affect interpretation.
- 26.2 **Interpretation Rules:** The following rules apply unless the context requires otherwise:
- The singular includes the plural and conversely.
 - A gender includes all genders.
 - If a word or phrase is defined, its other grammatical forms have a corresponding meaning.
 - A reference to a person, corporation, trust, partnership, unincorporated body or other entity includes any of them.
 - A reference to a Clause is a reference to a Clause of this SFOA.
 - A reference to an agreement or document (including a reference to this SFOA) is to the agreement or document as amended, varied, supplemented, novated, or replaced, except to the extent prohibited by this SFOA or that other agreement or document.
 - A reference to legislation or to a provision of legislation includes a modification or re-enactment of it, a legislative provision substituted for it and a regulation or statutory instrument issued under it.
 - A reference to dollars and \$ is to Australian currency.
 - The meaning of general words is not limited by specific examples introduced by including, or for example, or similar expressions.

27. DEFINITIONS

- 27.1 **Definitions:** The following definitions apply unless the context requires otherwise:

Acceptable Use Policy means a set of rules applied by the Supplier of a network, system or service that sets guidelines as to how it should be used and restricts the ways in which the network, system or service may be used.

ACMA means the Australian Communications and Media Authority.

Adaptive Connectivity as a Service means the combined offering of any or all Services, Equipment, Software and/or Maintenance provided under this Agreement as described in your Applications, and any related Critical Information Summaries and Service Support Schedule.

Agency Supplier Client Authorisation means the Agency Supplier Client Authorisation in your Application on the terms of this SFOA.

Agency Supplier means any carriers, telecommunications service providers, internet service providers or software or equipment or information technology suppliers that provide facilities and services that you have authorised us to engage on your behalf in your name.

Agreement, Standard Client Agreement and SFOA mean each of the contracts described in Clause 1.

Application means your request to us to supply Services, Software, Maintenance and/or Equipment to you in a manner accepted by us from time to time which may include but is not limited to completing and providing to us our relevant approved new client application form or existing client application form, acceptance of a Statement of Works or Service Support Schedule, submission of an online order via our client portal or product catalogue application, or other email, written or verbal requests or instructions from you.

Business Hours means 9am to 5pm on a day that is not a Saturday, a Sunday or a public holiday or bank holiday in the place concerned.

Business Information means the information described in Clause 11.

Caller Line Identification or CLI has the meaning described in Clause 13.

Client Portal means the client portal accessed by you online at www.commschoice.com.au for which you have been provided a username and password.

Client, you, your means the client, as specified in your Application.

CommsAssure Data Equipment means the data communications Equipment to be provided to you under this SFOA as specified in your Application and where applicable the related Critical Information Summary which may include but are not limited to routers, firewalls, wan interface cards, switches, UPS, wireless access points or other data communications Equipment and/or related data communications Software.

CommsAssure Data Services means the data communications Services to be provided to you under this SFOA as specified in your Application and where applicable the related Critical Information Summary which may include but are not limited to ADSL, ADSL2+, NBN FTTP, NBN FTTB, NBN FTTN, NBN Fixed Wireless, EFM, Multi Service Ethernet, Fibre, Fixed Wireless Ethernet, WAN, MPLS, International data network, email address, domain name, web hosting, email hosting or other internet or private data network Services.

CommsAssure Maintenance means the voice and data communications service, equipment and/or software Maintenance to be provided to you under this SFOA as specified in your Application and where applicable the related Service Support Schedule which may include but are not limited to equipment staging and configuration, onsite or remote installation, support, maintenance, warranty, update, replacement, green disposal, business continuity or other voice and data communications Maintenance.

CommsAssure Voice Equipment means the voice communications Equipment to be provided to you under this SFOA as specified in your Application and where applicable the related Critical Information Summary which may include but are not limited to IPPBX systems, handsets, telephony cards or other voice communications Equipment and/or related voice communications Software.

CommsAssure Voice Services means the voice communications Services to be provided to you under this SFOA as specified in your Application and where applicable the related Critical Information Summary which may include but are not limited to PSTN, ISDN, SIP, Voice over IP, inbound 13, 1300, 1800, complex routing or other voice telecommunications Services.

CommsChoice, we, us means CommsChoice Pty Limited ABN 95 133 368 797.

CommsConnect Equipment means the advanced information and communications Equipment to be provided to you under this SFOA as specified in your Application and where applicable the related Critical Information Summary which may include but are not limited to software asset management, software, enterprise software licensing, laptop computing, desktop computing, servers, colocation, infrastructure as a service public cloud, infrastructure as a service private cloud, unified communications, voice conferencing, video and web conferencing and collaboration, IPPBX wall board, multi-channel contact centre, SMS broadcast, CRM integration, marketing automation, IP security and camera systems, lone worker and care at home monitoring or other advanced information and communications Equipment and/or related advanced information and communications Software.

CommsConnect Maintenance means the advanced information and communications service, equipment and/or software Maintenance to be provided to you under this SFOA as specified in your Application and where applicable the related Service Support Schedule which may include but are not limited to equipment staging and configuration, onsite or remote installation, support, maintenance, warranty, update, replacement, green disposal, business continuity or other advanced information and communications Maintenance.

CommsConnect Services means the advanced information and communications Services to be provided to you under this SFOA as specified in your Application and where applicable the related Critical Information Summary which may include but are not limited to software audit and optimisation, software asset management, enterprise software licensing, hardware procurement, hardware asset management, orchestration, cloud readiness assessment, infrastructure as a service public cloud, infrastructure as a service private cloud, colocation, unified communications, voice conferencing, video and web conferencing and collaboration, IPPBX wall board, multi-channel contact centre, SMS broadcast, CRM integration, marketing automation, customer centricity assessment, IP security and camera systems, lone worker and care at home monitoring or other advanced information and communications Services.

CommsMobilise Equipment means the mobile communications Equipment to be provided to you under this SFOA as specified in your Application and where applicable the related Critical Information Summary which may include but are not limited to mobile handsets, tablets, modems, routers, repeaters, SIM cards or other mobile communications Equipment and/or related mobile communications Software.

CommsMobilise Maintenance means the mobile communications service, equipment and/or software Maintenance to be provided to you under this SFOA as specified in your Application and where applicable the related Service Support Schedule which may include but are not limited to number porting, equipment staging and configuration, support, maintenance, warranty, update, replacement, green disposal or other mobile communications Maintenance.

CommsMobilise Services means the mobile communications Services to be provided to you under this SFOA as specified in your Application and where applicable the related Critical Information Summary which may include but are not limited to 2G, 3G, 4G, 5G voice, data and/or messaging cellular telecommunications and related value added features or other mobile telecommunications Services.

Credit Reporting Agency has the meaning given to it in Part 6 of the Privacy Act.

Critical Information Summary means our standard rate sheets for the Services as amended from time to time, copies of which are available via the Client Portal, CommsDNA Reporting Software, on your Application or by contacting our client service team.

Early Cancellation Fees means the fees payable by you if the contract with you is terminated before its fixed term has expired in accordance with Clause 16 of this SFOA.

Effective Gain Date means the date at which an active Service begins receiving a commercial benefit through reduced cost and/or improved value and inclusions through the application of Optimisation Services or Proactive Price Reductions.

Equipment Agreement means the contract with us for the supply of Equipment under this SFOA.

Equipment means all or any of the CommsAssure Voice Equipment, CommsAssure Data Equipment, CommsMobilise Equipment, CommsConnect Equipment,

Rental Equipment, Purchase Equipment, or other Equipment specified in your Application but does not include Other Equipment or Supplier Equipment.

Fair Use Policy means a set of rules applied by the Supplier of a network, system or service that sets guidelines as to reasonable use and restricts or imposes charges for unreasonable network, system or service use.

Fixed Term or Fixed Length Agreement means the term of this Agreement as specified in Clause 7.

Gain Share means the payment due to us by you in return for exceeding either the Initial Transformation Gain Share Threshold, Physical Transformation Gain Share Threshold or Optimisation Gain Share Threshold.

GST has the meaning given in section 195-1 of the A New Tax System (Goods and Services Tax) Act 1999 (Cth).

Initial Transformation Gain Share Threshold means the first 10% of reasonably realisable savings identified by us for a standard 36-month procurement period from the time of our final report across each product category in scope including but not limited to CommsAssure Voice, CommsAssure Data, CommsMobilise and CommsConnect.

Integrated Public Number Database (IPND) means the industry-wide database containing all Australian listed and unlisted public telephone numbers to which we are required by the Telecommunications Act to provide your name, address, Service Number and other public number information.

Intellectual Property Rights means any and all intellectual and industrial property rights throughout the world including but not limited to any copyright, trade mark, domain name, business name, design, patent or other similar proprietary rights and licences and sub-licences of such rights (irrespective of whether or not such rights are registered, or formal or informal); trade secrets, technical or non-technical data, knowledge, information or documentation; secret or confidential operations or information; business systems, business methods or business plans (whether registered, registrable, formal, informal or otherwise); customer lists, supplier lists and other proprietary lists, names, addresses, techniques, diagrams, data, proofs, prints, particulars, inventions and prototypes or other information not generally known.

LNP Client Authorisation means the LNP Client Authorisation in your Application on the terms of this SFOA.

LNP Code means the code entitled ACIF C540:2013 Local Number Portability registered by the ACMA under the Telecommunications Act, as at 1 March 2014 or otherwise updated or amended by the ACMA.

Local Number Portability or LNP has the meaning given to it by the Industry Code: Local Number Portability registered by ACMA under the Telecommunications Act.

Maintenance Agreement means the contract with us for the supply of Maintenance under this SFOA.

Maintenance Charge means the charge for Maintenance as specified in your Application and as varied in accordance with this SFOA.

Maintenance means any Maintenance we provide as specified in your Application and under the terms of this SFOA.

MNP Client Authorisation means the MNP Client Authorisation in your Application on the terms of this SFOA.

MNP Code means the code entitled ACIF C570:2009 Mobile Number Portability registered by the ACMA under the Telecommunications Act, as at 1 December 2009 or otherwise updated or amended by the ACMA.

Mobile Number Portability or MNP has the meaning given to it by the Industry Code: Mobile Number Portability registered by ACMA under the Telecommunications Act.

Numbering Plan means the Australian Government Telecommunications Numbering Plan 1997 as amended from time to time.

Optimisation Gain Share Threshold means the first 10% of value improvements delivered by us for a rolling 12-month measurement period across each product category in scope including but not limited to CommsAssure Voice, CommsAssure Data, CommsMobilise and CommsConnect.

Optimisation Services means the telecommunications and/or information technology optimisation Services to be provided to you under this SFOA as specified in your Application and where applicable the related Service Support Schedule which may include but are not limited to rationalisation, optimisation, asset management, contract management, auditing and validation, wholesale service management, retail service management, revenue assurance, service and commercial reporting or other telecommunications and/or information technology optimisation Services.

Other Equipment means equipment that is not Equipment supplied by us.

Other Software means software that is not Software supplied by us.

Peripheral Equipment means the peripheral equipment in your Application and which is part of the Purchase Equipment or Rental Equipment, but it is not serviced by us as part of Maintenance.

Physical Transformation Gain Share Threshold means the first 10% of savings delivered by us for a standard 36-month procurement period from the time of our transformation outcomes report across each product category in scope including but not limited to CommsAssure Voice, CommsAssure Data, CommsMobilise and CommsConnect.

Privacy Act means the Privacy Act 1988 (Cth).

Proactive Price Reductions means improvements to pricing, value and inclusions for active Services versus those detailed in the Application and any associated Critical Information Summary under which those Services were originally requested.

Purchase Equipment Charge means the monthly or one off charge for the Purchase Equipment as specified in your Application and as varied in accordance with this Agreement, including where applicable any residual amounts owing to us at the expiry of the Fixed Term (such amounts which must be paid by you before ownership transfers to you in accordance with this Agreement).

Purchase Equipment means the equipment specified in your Application and supplied to you in accordance with this Agreement, in which ownership of and title to that equipment transfers to you upon our receipt of full payment for the equipment.

Related Body Corporate has the same meaning as in section 9 of the Corporations Act 2001 (Cth).

Rental Agreement means a rental of Equipment, Software and/or Services either on the terms of this SFOA or on the terms of any separate master rental agreement and/or related rental schedule(s) entered into by the parties.

Rental Equipment Charge means the monthly charge for the rental of Equipment as specified in your Application as varied in accordance with this SFOA and/or any Rental Agreement entered into by the parties, including where applicable any ongoing amounts owing to us at the expiry of the Minimum Term (such amounts which must be paid by you in order to continue using the Rental Equipment).

Rental Equipment means the equipment, software and/or services specified in your Application and/or any Rental Agreement entered into by the parties and supplied to you in accordance with this SFOA and/or any separate master rental agreement and/or related rental schedule(s) entered into by the parties, in which ownership of that equipment does not transfer to you at the expiry of the minimum term.

Retail Supplier Client Authorisation means the Retail Supplier Client Authorisation in your Application on the terms of this SFOA.

Retail Supplier means any means any carriers, telecommunications service providers, internet service providers or software or equipment or information technology suppliers that provide facilities and services that you have directly engaged in your name.

Service Number means either a local number or a mobile number.

Service Support Schedule means the Service Support Schedule provided to you by us as amended from time to time, copies of which are available via the Client Portal or by contacting our client service team.

Services Agreement means the contract with us for the supply of Services under this Agreement.

Services means the Transformation Services, CommsAssure Voice Services, CommsAssure Data Services, CommsMobilise Services, CommsConnect Services, Optimisation Services or other Services specified in your Application that we supply to you under this SFOA.

Site means the site, premises or fixed location described in your Application, Statement of Works and/or Service Support Schedule.

Software means the software we provide as specified in your Application but does not include Other Software.

Spam Act means the Spam Act 2003 (Cth.)

Statement of Works means the statement of works provided to you by us and accepted by you, as amended from time to time by mutual agreement, which may include but are not limited to a transformation path, commercial proposal or statement of works, copies of which are available via the Client Portal or by contacting our client service team.

Supplier Equipment means equipment that is not Equipment, Peripheral Equipment, Other Equipment, Purchase Equipment or Rental Equipment which is provided to you by our Supplier for use in connection with the provision of CommsAssure Voice Services, CommsAssure Data Services, CommsMobilise Services or CommsConnect Services specified in your Application.

Supplier means any Wholesale Supplier, Agency Supplier or Retail Supplier engaged in the provision of Services, Software, Equipment and/or Maintenance under this SFOA.

Telecommunications Act means the Telecommunications Act 1997 (Cth.)

Transformation Services means the telecommunications and/or information technology transformation Services to be provided to you under this SFOA as specified in your Application which may include but are not limited to business connectivity assessment, cloud readiness assessment, IT licensing assessment, wholesale optimal solution, risk free proof of concept, RFP management, commercial consulting, technical consulting, project management, project coordination and field engineering or other telecommunications and/or information technology transformation Services.

Wholesale Supplier Client Authorisation means the Wholesale Supplier Client Authorisation in your Application on the terms of this SFOA.

Wholesale Supplier means any means any carriers, telecommunications service providers, internet service providers or software or equipment or information technology suppliers that provide facilities and services that you have authorised us to engage on your behalf in our name.