

## **PLEASE READ OUR TERMS AND CONDITIONS BELOW**

### **1. Interpretation**

In these Terms, 'us', 'we' and 'our' means EdgeTel.

You represent and warrant that you are entering into these Terms either:

- a. you have entered the name of a valid legal entity on the sign up form, for and on behalf of that entity and you represent and warrant that you have the legal capacity and authority to bind that entity to these terms; or
- b. otherwise, as an individual and you represent and warrant that you have the legal capacity to enter into this agreement.

Where you enter into these Terms for and on behalf of an entity in accordance with clause 1(a) then, other than in this clause 1 and clause 5, in these Terms, 'you' or 'your' refer to the entity whom you represent.

### **2. Term**

These Terms commence when you create an Account in accordance with clause 4, and continue in full force and effect until:

- a. you cancel your Account by emailing us at [support@vcontrol.com.au](mailto:support@vcontrol.com.au); or
- b. we terminate your Account in accordance with these Terms.

If you breach these Terms, we may (without notice):

- a. terminate or suspend your Account; and
- b. disconnect or restrict your access to the Services.

Upon termination or suspension of your Account by us, you must cease all use of the Services, and we reserve the right to delete your Account and any data we have in relation to your Account.

To the full extent permitted by law, we will not be responsible for any loss, cost, damage or liability that may arise as a result of us exercising our rights under this clause 2.

You may only cancel your Account once you have disconnected any Services you are currently receiving and paid all outstanding Fees and charges on your Account.

### **3. Initial Payment**

In order to create an Account and sign up to receive the Services, you will be required to provide a payment in advance equal to \$100. When you begin to incur fees in connection with the Services, such fees will be deducted from the \$100 advanced payment amount. Once this amount has been exhausted, to continue to receive the Services, you will need to add additional funds to your Account in accordance with clause 14 and/or 15.

If you disconnect the Services and cancel your Account within the one calendar month after creating your Account, we will refund you the \$100 advanced payment in full.

#### **4. Creating an Account**

You must create an account to receive the Services (**Account**). To create an Account, you must:

- a. provide the initial \$100 advanced payment in accordance with clause 3;
- b. possess the legal right and ability to enter into a legally binding agreement with us; and
- c. agree and warrant to use the Services in accordance with these Terms.

When your Account has been created, you will be assigned a unique identification number and password that you can use to login to our vControl® platform for the purpose of managing your Services (**vControl®**).

You must keep your password confidential and secure and you acknowledge that we may use your password to verify your identity when communicating with you in connection with your Account. Please note that we will never request that you provide your identification number or password via email and you should, accordingly, be suspicious of any such requests you receive via email.

You must ensure that any person who uses the Services in connection with your Account complies with these Terms. You acknowledge that you are responsible for all use and activity carried out under your Account.

#### **5. Collection Notice**

We collect personal information about you in order to create the Account, provide the Services, respond to enquiries from you and for purposes otherwise set out in our Privacy Policy at <http://www.edgetel.com.au/privacy.php>.

We may disclose that information to the Integrated Public Number Database, emergency services and third parties that help us deliver our services (including information technology suppliers, communication suppliers and our business partners) or as required by law. If you do not provide this information, we may not be able to provide the Services to you.

Our Privacy Policy explains: (i) how we store and use, and how you may access and correct your personal information; (ii) how you can lodge a complaint regarding the handling of your personal information; and (iii) how we will handle any complaint. If you would like any further information about our privacy policies or practices, please contact us at [support@vcontrol.com.au](mailto:support@vcontrol.com.au) or 1300 734 235.

By providing your personal information to us, you consent to the collection, use, storage and disclosure of that information as described in the Privacy Policy and these Terms.

#### **6. Services**

- a. You must have an active Account in order to receive the Services.

- b. The Services will commence when you connect to the Services and continue until disconnected.
- c. In order to use the Services, you must choose a phone number type in accordance with clause 9.
- d. You will be able to maintain as many open channels as you have set lines/simultaneous calls within your vControl® system at that time, where channels include all inbound and outbound calls to or from your Account (**Maximum Simultaneous Calls**). As a complimentary feature, we may enable your Account to periodically exceed your Maximum Simultaneous Calls on inbound calls only. However we reserve the right to disable this feature at our discretion with no prior notice where we consider that you have persistently exceeded the Maximum Simultaneous Calls. You should therefore ensure that your Maximum Simultaneous Calls is sufficient to accommodate your usual business needs. A breach of this clause 6(d) is also deemed a breach of clause 21 (i).
- e. If you wish to disconnect your Services, you must give us notice by telephoning the vControl® billing department on 1300 734 235 and requesting that we disconnect your Service. The Services will be disconnected within 7 days of receipt of such a request. You will be issued with a final invoice following disconnection and, if your Account Balance is in deficit, you must pay all outstanding amounts in relation to the disconnected Services.
- f. You acknowledge that there may be circumstances in which we need to suspend, restrict or disconnect the Services and that we may do so at our discretion at any time.

## **7. Emergency Services Information**

The technology we use to provide the Services is, by nature, not a fault-free service. Therefore it should not be used for Emergency Services (000 or 112) calls. Fixed land line services or mobile phone services should be used instead for emergency calls.

Also note that the Services are unable to be used to make calls for emergency services outside Australia including Emergency Services (111) calls for emergency services in New Zealand.

Since the Services are location independent, if the Services are used to make an Emergency Services (000 or 112) call, the caller will need to advise the operator of their location.

## **8. Conditions of Use**

You agree:

- a. to comply with all applicable laws (including any applicable privacy and data protection laws) and any other requirements of a government and statutory authority (including licences and permits);
- b. to cooperate with us in providing you with the Services and ensure that information you have provided to us is, at all times, accurate and not misleading;

- c. to update us in relation to any changes to your billing information;
- d. not to copy, modify, merge, alter, adapt, translate, de-compile, disassemble or reverse engineer any aspect of the Services or to merge any software or any part of any software with any aspect of the Services unless expressly permitted by the Terms;
- e. not to interfere in any manner with the Services or any work product of vControl® (except as permitted by these Terms);
- f. not in any circumstances to sell or license or offer for sale or license your Account, nor to allow any person to use or have access to your username or password, other than as permitted by the Terms;
- g. not to remove, modify or obscure any copyright, trade mark, service mark, tagline or other notices that appear in connection with the Services;
- h. not to use any data mining, gathering or extraction tools in relation to any aspect of the Services; and
- i. that we cannot guarantee and do not promise any specific results from the use of the Services.

## **9. Phone Numbers and Numbering Systems Management**

You may select either of the following types of phone number. Please refer to the Pricelist to compare the Fees applicable to each type of phone number.

- a. Local Geographic Numbers (**Local Numbers**)  
Local Numbers are regular Australian geographic telephone numbers issued by the Australian Communications and Media Authority (**ACMA**). They are the same numbers you would receive on a regular phone service provided by Telstra, Optus, AAPT or another telecommunications provider. Local Numbers are state based and start with 02, 03, 07 or 08. If you select a Local Number, your rights and obligations are regulated by the ACMA. This includes the ability to port your Local Number between different carriers. We can provide local numbers in most areas.  
To receive a Local Number, you must provide a residential or business address in that local area where the telephone service is connected. Your Local Number can be listed in Sensis and the White and Yellow Pages.
- b. Numbers from our vControl® incoming DID service (**vControl® DID Numbers**).  
vControl® DID Numbers are direct in dial numbers owned by us which are connected directly into our private branch exchanges (**PBXs**) in various cities around Australia. If you select this option, you will be given exclusive use of one or more of these vControl® DID Numbers, so that any calls to the number will be automatically directed to your vControl® phone. You can further divert this call to any other fixed or mobile phone. vControl® DID Numbers are available in Brisbane, Sydney, Canberra, Melbourne, Adelaide, Perth and the Gold Coast (**Eligible Locations**).  
With an vControl® DID Number, callers in Eligible Locations will only pay a local call to access the DID number and the call will be directed to your vControl® phone anywhere in Australia or overseas.  
If you select this option, you can have an unlimited number of vControl® DID Numbers from any or all of the Eligible Locations, subject to paying the

applicable Fees. These can be additional to any Local Number you may have already connected to your Service. vControl® DID Numbers are not listed in Sensis or the White or Yellow Pages.

A vControl® DID number cannot be set as your caller ID. The caller ID of the caller will be set to your vControl® phone unless it has been withheld. vControl® DID Numbers always remain our property and you cannot port an vControl® DID Number to another provider.

## **10. Voicemail**

vControl® may provide a voicemail service for each phone number or SIP extension.

## **11. Facilities and Equipment**

In order to use the Services you must:

- a. have a SIP compatible phone, download the free X-Lite software which allows you to use a computer headset with your PC, or buy a SIP phone from us once you have signed into vControl®; and
- b. ensure you have all adequate electric current, adequate electrical and mechanical fittings, appropriate environmental conditions and supply of internet services.

We will not be liable for any failures of our Service where you have not complied with this clause 11.

## **12. Purchasing Equipment**

When you purchase equipment from us (**Equipment**), you are responsible for accepting delivery. Responsibility and risk in the Equipment passes to you upon delivery of the Equipment to your nominated delivery address. Subject to clause 20, title in the Equipment passes to you upon receipt by us of the total amount of the fees payable for the Equipment. Fees for Equipment are to be paid in accordance with clause 14.

The price of any Equipment does not include any training in relation to the Equipment.

We provide a warranty against defects in the Equipment for a period of 365 days from the date of delivery (**Warranty Period**). During the Warranty Period, you may notify us in writing of any defect or suspected defect in the Equipment. This Warranty Period will be deemed to have immediately ceased if the Equipment is used in a manner that is inconsistent with these Terms or law, has been modified in any way, has been used other than in accordance with its operating manual, or no longer has an intact and legible serial number.

## **13. Technical Support and Faults**

- a. You may request technical support or report a fault with the Services by email via [support@vcontrol.com.au](mailto:support@vcontrol.com.au).
- b. Prior to contacting us, you must use reasonable endeavours to investigate and ascertain for yourself the cause of the fault or technical issue and,

when you contact us, provide us with any further information including what you have done to try to rectify your issue.

- c. To the extent that the technical issue or fault relates to the Services, we will use reasonable endeavours to provide a technical support technician by telephone as soon as reasonably practicable and to rectify any fault within reasonable timeframes. This includes but is not limited to pro-actively working with third party suppliers. We will follow through with a series of updates and notifications through the notification email service (if you have subscribed to this service). When we have remedied the fault, we will notify you within a reasonable timeframe.
- d. You agree that you are responsible for making such engineering changes or taking such other measures as may be necessary to resolve any technical issues or faults that to the extent that such are not in relation to the Services.
- e. You agree to provide such assistance as may be necessary in order to enable us to effectively perform technical support services.
- f. You must permit our technical support team to have access to such hardware or systems as may be required to investigate and resolve technical issues or faults with the Services at all reasonable times including, but not limited to, all periods during which the technical support services are being performed.
- g. We will not be required to perform technical support onsite under any circumstances. While we will use reasonable endeavours to integrate the Service with your equipment, the effective functioning of that equipment and your internet connection remains your responsibility.

#### **14. Fees and Invoicing**

- a. In consideration for receiving the Services and/or Equipment, you must pay us the fees and charges applicable to your Service (**Fees**). The Fees payable will be calculated using the Pricelist (available at <http://www.edgetel.com.au/pricing.php>) and in accordance with clause 17.
- b. Fees must be paid in advance of your use of the Services by adding funds to the account balance connected to your Account (**Account Balance**). You can choose how to add funds to your Account Balance within vControl®. The applicable Fees for your Services will be deducted from your Account Balance as they become payable. If sufficient funds are not available at the time the Fees are payable, your use of the Services may be restricted.
- c. In order to minimise the disruption of your Services we may, at our discretion, allow your Account Balance to go into deficit up to a certain amount. You will receive notification via email when your account balance drops below your nominated minimum balance. You can adjust this amount within your vControl® portal at any time.
- d. We will email a monthly invoice to you detailing the amounts you have added to your Account Balance, Fees incurred and the Services used in the previous month (**Invoice**).

- e. If we suspend the Services due to a breach of these Terms by you, Fees may continue to be payable and deducted from your Account Balance during the period of such suspension.
- f. If you disconnect your Services in accordance with clause 6(e) and:
  - i. there are still funds available on your Account Balance, you may request a refund of the available amount;
  - ii. your Account Balance is in deficit, we will send you a final Invoice, including instructions for paying off the deficit. If you fail to pay any outstanding Fees in accordance with the instructions in your final invoice, we may transfer the debt to a registered collection agency for debt recovery. In which case, you acknowledge and agree that you must pay any additional charges imposed by the registered collection agency in relation to your debt and/or our legal costs incurred in connection with recovery of the debt.

### **15. Automatic Top-Up Feature**

- a. You may elect to authorise us to automatically top-up your Account Balance by a certain amount (**Recharge Amount**) by charging your nominated credit or debit card (**Nominated Card**) when your Account Balance reaches, or drops below, a certain amount (**Minimum Account Balance**) (**Automatic Top-Up Feature**). Your Recharge Amount, Nominated Card and Minimum Account Balance can be nominated or changed by you through vControl®.
- b. If you elect to use the Automatic Top-Up Feature we will continue to charge your Nominated Card in accordance with clause 15(a) until you tell us to stop by removing this payment option within vControl®. You are responsible for ensuring that sufficient funds are available so that the appropriate deduction can be made.
- c. Where an attempted deduction from your Nominated Card is unsuccessful, we may attempt to charge your Nominated Card again for the Recharge Amount each time you attempt to make an outbound call or otherwise attempt to use the Services in a way that would cause you to incur a Fee, until the deduction is successful. You may be unable to make outbound calls if there are not sufficient funds available on your Account Balance.
- d. We may charge a transaction fee for charges against certain types of credit or debit cards.

### **16. Disputed Invoices**

- a. If you notify us that you dispute an amount contained in an Invoice we will promptly investigate the issue and notify you of the outcome of our investigation.
- b. Following our investigation, if we conclude that an adjustment to your Account Balance is required, we will make the appropriate adjustment.

### **17. Calculating your Fees**

- a. You agree that, while the Services are connected, we will impose Fees for calls in accordance with the Pricelist, based on the following principles:
  - i. the duration of an outbound call commences when a call made from your number is answered and ceases when the call is terminated by you;
  - ii. incoming calls do not incur any Fees;
  - iii. where applicable, calls are charged in one minute increments (rounded up);
  - iv. our records are evidence of your use of the Services and the Fees payable; and
  - v. any calls from the number that we have supplied you with are deemed to be authorised by you and you will pay all Fees associated with such calls accordingly.
- b. Where the Fee for a Service is expressed as a Fee payable 'per month', these Fees will be calculated and become payable on the same day each month based on the Services that are connected on that day. However, we may instead, in our discretion, revert to charging you on a pro rata basis for 'per month' Services for the period during which the Services are connected if you have repeatedly connected and disconnected the same or similar Services.

## **18. Included Call Plans**

If you are on an 'Included Call' plan, you will be able to place outbound calls for up to 1,000 minutes to mobile phones and 1,000 minutes to land line phones, per line which is subject to the plan. If you exceed these amounts, you may incur additional Fees.

## **19. GST**

- a. If GST is payable on a supply made under or in connection with these Terms, the party providing the consideration for that supply must pay as additional consideration an amount equal to the amount of GST payable on that supply.
- b. Unless otherwise stated, all amounts referred to in these Terms, including the Pricelist, are stated on a GST exclusive basis.
- c. If an adjustment event occurs in relation to a supply made under or in connection with these Terms, the GST payable on that supply will be recalculated to reflect that adjustment and an appropriate payment will be made between the parties.
- d. Terms which have a defined meaning in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) shall have that meaning in these Terms.

## **20. Intellectual property rights**

- a. Unless otherwise indicated, we own or license from third parties all rights, title and interest (including copyright, designs, patents, trademarks and other intellectual property rights) in all of the material (including all text, photographs, graphics, logos, video, audio and software) on our website and provided by us to you in connection with the Services (**Content**).

- b. Your use of the Services, and use of and access to any Content does not grant or transfer any rights, title or interest to you in relation to the Content. However, subject to the terms and conditions of this agreement, we grant you a non-exclusive, non-transferable, non-sublicensable licence to use and access the Content for the purpose of receiving the benefit of the Services.
- c. Any copying, reproduction, publishing, modification or redistribution of the Content is prohibited, except to the extent permitted by law or these Terms, and may result in civil and criminal penalties.

## **21. Unacceptable Activity**

You must not do any act that we would deem to be inappropriate, is unlawful or is prohibited by any laws applicable to the Services, including but not limited to:

- a. any act that would constitute a breach of either the privacy (including uploading private or personal information without an individual's consent) or any other of the legal rights of individuals;
- b. providing us with misleading information as to your identity, such as providing a false email address or impersonating another person or entity;
- c. uploading files that contain viruses that may cause damage to our property or the property of other individuals;
- d. using the Services to transmit, distribute or publish any non-authorized material including, but not limited to, material that is, in our opinion, likely to cause annoyance, or which is defamatory, racist, obscene, threatening, abusive, pornographic or otherwise or which is detrimental to or in violation of our systems or a third party's systems or network security;
- e. using the Services, its features, or your equipment in a way that is, or at any time was inconsistent with the normal inbound or outbound usage patterns for the type of Services that you have purchased;
- f. tampering with your equipment. In this instance we also reserve the right to charge you the full purchase price of any equipment provided to you for use with the Services;
- g. using the Services in any way which interferes with the operations of our network or anyone else's enjoyment of their service;
- h. using the Services for commercial purposes (other than as contemplated in these Terms) or in any way distribute or resell the service without our written permission; and
- i. using the Services excessively in any way.

You agree to indemnify us against any claim, loss, liability, cost or expense (including liability for reasonable legal costs) that we incur as a result of you breaching this clause 21.

## **22. Warranties and disclaimers**

Although we will take reasonable steps to make sure you receive the Services within local calling areas, to the maximum extent permitted by law, including the Australian Consumer Law, we make no warranties or representations as to the reliability, timeliness, quality, suitability, truth, availability, accuracy or

completeness, or any content contained in or generated by, the Services, or that:

- a. the use of the Services will be secure, timely, uninterrupted or error-free;
- b.
- c. the Services will operate in combination with any other hardware, software, system, or data;
- d. the Services will meet your requirements or expectations;
- e. any stored data will be accurate or reliable or that any stored data will not be lost or corrupted;
- f. errors or defects will be corrected; or
- g. the Services (or any server(s) that make a hosted service available) are free of viruses or other harmful components.

The Services and all other products are provided "as is" and to the extent permitted by law (including the Australian Consumer Law if applicable), we disclaim any and all warranties and representations of any kind, including any warranty or non-infringement, title, fitness for a particular purpose, functionality or merchantability, whether express or implied.

We shall not be liable for delays, interruptions, service failures and other problems inherent in use of the internet and electronic communications or other systems outside our reasonable control.

### **23. Liability**

To the extent permitted by law, including the Australian Consumer Law, EdgeTel and their respective officers, directors, shareholders, employees, representatives, parents, subsidiaries, affiliates, agents, or licensors are not liable for losses or damages of any kind whether direct, indirect, incidental, consequential, special, punitive or exemplary, and whether tangible or intangible in nature including lost revenues or profits, loss of business or loss of data, in any way related to the Services or for any claim, loss or injury based on errors, omissions, interruptions or other inaccuracies in the Services (including without limitation as a result of breach of any warranty or other term of this agreement) even if such damages, claims, losses or injuries were foreseen or foreseeable.

To the extent that any liability is not legally capable of being excluded, any claim against us arising out of contract, tort or otherwise, to the extent permitted by law, shall be strictly limited to the amount you paid, if any, for use of the Service.

### **24. Accuracy, completeness and timeliness of website**

The information on our website is not comprehensive and is intended to provide a summary of the subject matter covered. While we use all reasonable attempts to ensure the accuracy and completeness of the information on our website, to the extent permitted by law, including the Australian Consumer Law, we make no warranty regarding the information on this website. You should monitor any changes to the information contained on this website.

We are not liable to you or anyone else if interference with or damage to your computer systems occurs in connection with the use of this website or a linked website. You must take your own precautions to ensure that whatever you select for your use from our website is free of viruses or anything else (such as worms or Trojan horses) that may interfere with or damage the operations of your computer systems.

We may, from time to time and without notice, change or add to the website (including the Terms) or the information, products or services described in it. However, we do not undertake to keep the website updated. We are not liable to you or anyone else if errors occur in the information on the website or if that information is not up-to-date.

## **25. Variation**

- a. We may amend these Terms from time to time (including the Pricelist) to reflect changes in market conditions, changes in technology used to provide the Services, changes in payment methods, changes in relevant laws and regulatory requirements and changes in the capabilities of the Services.
- b.
- c. We will provide you with reasonable prior notice of any amendment to these Terms in writing, including 30 days' notice of any changes to the Pricelist. You must accept the amended terms in order to continue use of the Services. Continued use of the Services shall constitute acceptance by you of any amendment to these Terms. If you do not agree to the amended terms, you must disconnect the Services in accordance with clause 6(e) and cancel your Account in accordance with clause 2(a) prior to the amendment taking effect.

## **26. No Waiver**

No delay, neglect or forbearance on the part of any party in enforcing against any other party any obligation under these Terms will operate as a waiver or in any way prejudice any right under these Terms.

## **27. Entire Agreement**

These Terms contain the entire agreement between the parties with respect to its subject matter. They set out the only conduct, representations, warranties, covenants, conditions, agreements or understandings (collectively **Conduct**) relied on by the parties and supersedes all earlier Conduct by or between the parties in connection with its subject matter. None of the parties has relied on or is relying on any other Conduct in entering into these Terms and completing the transactions contemplated by it.

## **28. Jurisdiction and governing law**

Your use of the website and these Terms are governed by the law of Victoria and you submit to the non-exclusive jurisdiction of the courts exercising jurisdiction in Victoria.

## **29. Survival**

Clauses 1, 5, 14, 17, 19, 20, 22 to 24, and 26 to 30 survive termination of these Terms.

### **30. Severability**

If any provision of these Terms is held to be invalid, illegal or unenforceable, these Terms will continue otherwise in full force and effect apart from such provision which will be taken to be deleted.

### **31. Consumer Protections Compliance**

Please download a copy of the What You Need to Know document which summarises ways to manage your spend, the network the Services are provided through, payment methods, and your warranty rights for hardware that you may purchase from us. You may also wish to download a copy of the Communications Alliance Ltd's document Protecting our Customers at: [https://www.commsalliance.com.au/\\_data/assets/pdf\\_file/0005/38363/Protecting-Our-Customers-TCP-Code-29Oct2012.pdf](https://www.commsalliance.com.au/_data/assets/pdf_file/0005/38363/Protecting-Our-Customers-TCP-Code-29Oct2012.pdf)