

General Terms

Overview of these terms

These terms and our Critical Information Summaries set out our standard customer terms. To understand your rights and obligations, you should read these terms and the Critical Information Summary that relates to your service.

Changing these terms

From time to time, we may need to change these terms. If we believe the change will benefit you, has no impact on you, or has a neutral impact on you, then we don't have to notify you, but we'll usually publish a notice on our website or email you. If we believe the change has a detrimental impact, we'll give you at least thirty (30) days prior notice of the change.

We don't have to give you notice of a change if we need to make the change immediately in order to act legally or the change results from changes in the law, or we think the changes are necessary for security, fraud prevention or technical reasons. But if this is the case, we'll give you as much notice as we reasonably can.

If we make a change and you don't accept it, you may cancel your service by giving us notice. Your service will be cancelled from the date the change takes effect and we'll refund you any unused portion of your monthly charges. You also won't have to pay any early termination costs that would otherwise be payable by you for cancelling your service at that time. If you don't cancel your service, you'll be taken to have agreed to the change from the date on which the change comes into effect.

Using your service

You must use compliant equipment

You may only connect equipment to your service that complies with relevant standards. For these standards see the Australian Communication Media Authority's website at: <http://www.acma.gov.au>

You must make any changes we ask to your equipment to avoid any danger or interference it may cause.

Our provision of your service

We'll use reasonable care and skill in providing your service. However, given the nature of telecommunications systems, we cannot promise that your service will be continuous, accessible at all times or fault-free. There are also other non-excludable rights under consumer protection laws such as the Competition & Consumer Act 2010 (Cth) and State and Territory Fair Trading Acts that may apply to goods or services we supply to you, including that services be fit for their purpose.

Keeping your account information secure

You must keep your account information, password, data and equipment secure. We're not responsible for any loss or damage you suffer as a result of your failure to maintain such security.

Keep your details up to date

You must keep your account details, including your contact phone number and email address, up to date. This is so that we can inform you about important things to do with your service. We recommend you regularly check the email address that you have provided as a contact address, as we'll use this and the mobile number you provide to communicate with you about your service.

Use of your service

Keeping track of your usage

You can keep track of your usage online by signing in to your Customer Access Toolkit (CAT) account via our website at ascensa.com.au. We'll also send you alerts when you're approaching your monthly data usage limit. Note: if you've got a fixed service on an unlimited data plan, you won't be able to track your usage on our website, and we'll not send you alerts.

Maintenance of your service

We encourage you to use our technical support services for problems with your service. We'll use reasonable efforts to rectify the problem as soon as possible. However:

- we don't provide technical support services for configuring your home network to connect it to your service, and we don't provide assistance with home network-related difficulties;
- if we need to attend the premises in response to a technical support call, and we believe on reasonable grounds that there is no service problem, or that we did not cause the service problem, we may charge you a service fee that will be notified prior to our site visit; and
- we do not repair or maintain your equipment; and
- all cabling and equipment on your side of the network boundary point is your responsibility.

Acceptable use policy

To ensure the availability of our services to eligible customers, we have implemented an acceptable use policy to make sure everyone gets a fair go. We have designed our products to be generous, but we do not want those generous terms abused.

Use your service for these things

Our services are provided for mainly personal use. You must only use, and allow a service to be used, for that purpose.

Your ordinary use of your service for your personal use will not be a breach of this Acceptable Use Policy.

Don't use your service for these things

You must not use your service, attempt to use your service or allow your service to be used in any way which:

- causes you to breach any part of these customer terms, or to breach any law, a code or an instrument which governs your conduct;
- could cause us to breach, or be involved in a breach, of any law, a code or an instrument which governs our conduct, or infringe the rights of a third party, including the intellectual property rights;
- is commercial or business use (including use other than personal, household or domestic use, or reselling the service to a third party, making the service available to people outside your household, or running an internet café on the service);
- creates or distributes viruses, malware, anti-security programs;
- could result in us incurring a liability to any person;
- in our reasonable opinion, significantly interferes with other customers' use or enjoyment of a service or interferes with our efficient or proper operation of our services;
- engages in conduct or activities that we consider could adversely affect or prejudice the Ascensa reputation or brand; or
- attempts to manipulate or bypass any limitations on your service by any means.

Reviewing your usage

We may monitor and review the use of your service for compliance with this policy and will do so in accordance with our privacy statement. This may include taking steps to verify that your use is mainly for personal use, and otherwise for ordinary use, as well as contacting you to discuss and investigate your usage. You agree to co-operate with us on these reviews and contacts, including providing us with a reasonable explanation about your usage in a timely manner we may reasonably set.

Non-ordinary use

Your non-ordinary use of your service may be treated as a breach of this Acceptable Use Policy, even where such use may be for your personal use, especially in situations where such non-ordinary use may be harmful to you and our other customers. The types of factors or information that we may take into account as indicating non-ordinary use include:

- activity that is generally associated and consistent with your service being infected with a virus or other malicious software;
- an unusually high number of devices associated with your service;
- a significant and unusually high volume of uploads;
- your contact address being associated with more than one Ascensa service at your address;
- regular use of the service for sending or receiving bulk emails;
- where the address for your service is within a non-residential council zone and your service may be associated with being used mainly for a business purpose;
- information from public directories about you or your service of a commercial nature;
- the use of business names as your contact email; and
- the presence of other usage characteristics we consider are not ordinarily commensurate with ordinary personal use.

If you breach the Acceptable Use Policy

A breach of this policy may amount to a serious breach of these terms which may entitle us to suspend or terminate your service, as set out below.

Suspension, cancellation or termination of your service

Your right to cancel this service

You may cancel your service by providing us with thirty (30) days' notice in writing, to take effect at the end of the current monthly payment cycle.

If you cancel your service, we won't refund any fees that you've already paid to us, including any upfront fees.

If you're on a month to month plan and you cancel it after activation but before your first monthly bill you'll be charged one month's plan charge.

If you've got a fixed service, and you're on a month-by-month plan and you cancel it after activation but before your first monthly bill you'll be charged one month's plan charge.

Our rights to terminate your service

We may terminate your service:

- if you are in serious breach of these terms, and we have notified you in writing of your breach and you have failed to remedy the breach within thirty (30) days of our notice, where the breach can be remedied;
- immediately, if you are in serious breach, and the breach is something which cannot be remedied; and
- immediately, for a non-serious breach of these terms, where the consequences are serious;

We can also terminate your service by telling you with as much warning as we reasonably can if:

- we obtain your consent;
- the law requires us to do so, or if providing your service becomes illegal or we believe on reasonable grounds that it may become illegal;
- if a regulatory event occurs, and we are not able to continue providing a service to you at all or on the same terms as set out in these terms;
- you become bankrupt or insolvent or appear likely to do so;
- you vacate the premises to which your service is connected;
- we are not able to provide your service to you due to an event outside our reasonable control (such as a failure in equipment that is not owned or operated by us, an industrial strike or an act of God); or
- we take reasonable steps to appropriately offset the effect of the cancellation on you (for example by providing a credit or a rebate to you).

If we terminate your service, you must still pay us for any charges incurred before the termination of the service.

Our rights to limit or suspend your service

We may limit or suspend your service, once we've given you reasonable notice:

- where we would be entitled to terminate your service in accordance with these terms;
- if we reasonably suspect a breach of these terms has occurred and we need to investigate; or
- for the purpose of maintenance, integrity, protection or restoration of our networks or the users of our networks.

If we need to limit or suspend your service for any of maintenance reasons, usually we'll give you 24 hours' notice, unless the maintenance is urgent, in which case we'll give you as much notice as we reasonably can.

If we suspend your service, we'll refund any fees that you paid for the period your service was suspended.

Our right to migrate your service

We may migrate you to an alternative service or pricing plan by providing to you reasonable prior notice. If you're not satisfied with the alternative service or pricing plan, you may terminate your service by giving us notice.

Liability

Our liability to you

Except as set out in the paragraphs below:

- we accept our liability to you for breach of contract or negligence under the principles applied by the courts and for breach of any non-excludable rights under consumer protection laws;
- as your service is provided to you for the purpose of personal, domestic or household use, we do not accept liability to you for losses that result from the use of your service in connection with the conduct of a business. However, we'll accept that liability if it cannot be excluded under any legislation; and
- we are not liable for any loss to the extent that it is caused by you (for example, through your negligence or breach of contract).
We offer our services for personal use only. However, if notwithstanding these terms you've used your service for a business purpose, then provided it is lawful to do so under law, including under consumer protection laws:
 - we limit our liability to you for any losses caused by any interruption or delay to your service to an amount equal to the service charges billed to you for the affected service for the period of the interruption or delay;
 - we accept our liability to you for breach of contract or negligence under the principles applied by the courts:
 - a) for any personal injury or death to you, your employees, agents and contractors in relation to the supply of your service;
 - b) for any damage to your property (real or tangible) resulting from the supply of your service, but we limit our liability to our choice of repairing or replacing the property or paying the cost of repairing or replacing it; and
 - c) for any other cost or expense reasonably incurred as a direct result of our breach or negligence (but excludes loss of profits, likely savings and data), but we limit our liability for all such claims in aggregate to the total amount payable to us by you for the first year of your service;

- other than to the extent we have accepted liability under this clause and for liability that cannot be lawfully excluded or limited under law, including under consumer protection laws, we exclude all other liability to you or a third party for breach of contract, negligence or any other law. For any liability that cannot be lawfully excluded but can be limited, our liability is limited to resupplying or paying the cost of resupplying services and repairing, replacing or paying the cost of repairing or replacing goods;
- we are not liable for any loss to the extent that it is caused by you, your employees, agents or contractors; and
- we are not liable for any loss caused by us failing to comply with our obligations regarding your service where that is caused by events outside our reasonable control (such as a failure in equipment that is not owned or operated by us, an industrial strike or an act of God).

Your liability to us

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

Common Terms

Transferring obligations

You may not transfer your rights and obligations in respect of your service without our consent, which will not be unreasonably withheld.

From time to time, we may need to ask another party to provide some aspect of your service to you. We may transfer or novate any of our rights or obligations about your service to a third party who agrees to be bound by our obligations under these terms.

Notices

If we need to notify you of any matters about your service, we may use post, SMS or email to the mail address, mobile number or email address you provided to us when you signed up for a service.

No waiver of rights

Neither party waives any of its rights under these terms merely because they do not exercise them or if they delay in exercising them.

Survival of certain clauses

Clauses relating to charges, privacy and liability survive termination of your service.

Governing law

These terms are governed by the laws of the Australian State or Territory in which you receive your service.

Defined terms

Certain words in this document have defined meanings as follows:

- "fixed service" means an optic fibre service or an nbn™ service.
- "GST and Tax Invoice" have the meanings given in the A New Tax System (Goods and services Tax) Act 1999 (Cth).
- "intellectual property" includes all patents, designs, copyright, trademarks or circuit layout rights and any right to apply for the registration or grant of any of the above.
- "modem/router" means the Wi-Fi modem/router that we supply to deliver a broadband service or bundle to you.
- "nbn™ service" means an nbn™ broadband service, as defined in the nbn part of these terms.
- "networks" means our other carrier suppliers fixed networks and nbn™ network.
- "Our fixed networks" means our 'telecommunications network' as defined under the Telecommunications Act 1997.
- "premises" means the location to which your fixed service will be provided.
- "regulatory event" means:
 - (a) a determination or notice issued by the Australian Competition and Consumer Commission, the ACMA or other regulatory notice or determination; or
 - (b) a determination by any court; or
 - (c) a determination by us that, in our opinion, on reasonable grounds and acting in good faith, the supply of your service, these terms or any action taken or required to be taken in accordance with these terms contravenes or may contravene any applicable law.
- "service" means a service as provided to you under these terms, and includes any goods or equipment provided in connection with that service.
- "we, us and our" means Ascensa Communications Pty Ltd (ABN 68 159 642 172) and its employees; as well as its agents, sub-agents and their respective employees.
- "you and your" means the customer.