

OUR CUSTOMER TERMS OTHER SERVICES SECTION – PARTNER SERVICES

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

1 ABOUT THIS PART

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

2 PARTNER SERVICES

Our services

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

Availability

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

Your obligations

- 2.6 Your application form will also set out the details of any materials and inputs to be provided by you. You must provide these materials and inputs by the dates specified in your application form or, where no dates are specified, upon our reasonable request.
- 2.7 Where our personnel perform the Partner Services or deliver Partner Services Equipment to you at your premises, you will ensure that your premises comply with all applicable health, safety, environment and community laws and regulations.
- 2.8 You will obtain any consents and fund any site access and induction fees necessary to enable our personnel to access your premises for the purposes of providing the Partner Services or delivering the Partner Services Equipment to you.
- 2.9 Unless otherwise agreed in your application form, the Partner Services and any Partner Services Equipment are provided for your benefit only. You must not use them for a third party's benefit or allow a third party to use them.

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Acceptance of Partner Services and Partner Services Equipment

- 2.10 At the completion of the Partner Services or delivery of Partner Services Equipment to you, you must sign Attachment 2 of the Application Form.
- 2.11 Acceptance of a Partner Services or Partner Services Equipment occurs on the earliest of:
- (a) the date you issue Attachment 2 of the Application Form to us; or
 - (b) the date you use the Partner Services or Partner Services Equipment in any way other than for testing purposes.
- 2.12 Acceptance of a Partner Services or Partner Services Equipment does not affect any rights you may otherwise have under any law or elsewhere in these terms to have defects corrected.

Scheduled timeframes and delivery dates

- 2.13 Subject to the Australian Consumer Law provisions in the General Terms of Our Customer Terms, we aim to meet the Customer Requested Date set out in your Application Form but cannot guarantee to do so. The ability to meet the Customer Requested Date(s) in your Application Form are impacted by many factor, including: the nature of your internal environment, the availability of our consultants at the time of contract and the timeliness of your inputs and materials. As a result, we may be unable to deliver the Partner Services and/or the Partner Services Equipment by the Customer Requested Date(s).
- 2.14 We only have to perform the Partner Services during Business Hours (8am to 6pm Monday to Friday, excluding public holidays in the place where you are located). If you want us to perform the Partner Services at another time, there will be extra charges that we will advise you of.
- 2.15 The Service Start Date for the Partner Services Support Services will commence on the date that we accept your Application Form. We will be unable to accept your Application Form until the following occur: 1) you sign the Completion of Work at Attachment 2 of your Application Form, 2) the Partner the submits the Application Form to us, and 3) Telstra processes your Application Form.

Change management

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

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3 FEES AND CHARGES

- 3.1 Unless otherwise stated, all fees and charges set out in your application form are:
- (a) in Australian dollars (\$AUD); and
 - (b) GST exclusive.
- 3.2 You must pay to us the fees in the amounts and at the times set out in your application form.
- 3.3 You must also reimburse us for out-of-pocket expenses reasonably and actually incurred by us in performing the Partner Services, provided that:
- (a) you sign and return to the Partner Attachment 1 of the Application Form agreeing to the scope of the Partner Services that you are requesting; and
 - (b) we produce a valid invoice or receipt when claiming the expense.

4 PARTNER SERVICES

Your premises

- 4.1 You must:
- (a) ensure that the working environment is safe for us to provide Partner Services;
 - (b) prepare the working environment for us to provide the Partner Services; and
 - (c) provide us with anything else we require in order for us to provide the Partner Services.
- 4.2 We will use due care and skill in providing the Partner Services to you but, subject to clause 5.10 and the Australian Consumer Law provisions in the General Terms of Our Customer Terms, do not guarantee that they will be continuous or fault free.
- 4.3 Subject to the Australian Consumer Law provisions in the General Terms of Our Customer Terms:
- (a) we are not responsible for any loss or damage to software, firmware, information or memory data of yours contained in, stored on, transmitted to or integrated with your equipment while it is the subject of the Partner Services; and
 - (b) we are not responsible for any other problem during the performance of the Partner Services unless we caused the problem.
- 4.4 We will not be liable to you for any indirect or consequential loss or damage incurred or suffered by you in connection with the performance of the Partner Services.
- 4.5 Subject to the Australian Consumer Law provisions in the General Terms of Our Customer Terms, we cannot guarantee that the Partner Services will produce particular results or outcomes for you (such as achieving external certification, accreditation or industry standards).

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Cancellation of Partner Services Implementation Services

- 4.6 You may cancel your Partner Services Implementation Services at any time before the Partner Services Implementation Services are performed by giving us not less than 5 Business Days prior written notice.
- 4.7 We may charge you for all services performed up to your cancellation.

Cancellation of Partner Services Support Services

- 4.8 You may cancel your Partner Services Support Services at any time by giving us not less than 30 calendar days' prior written notice (or such other notice as may be specified in your application form). We will cease work in accordance with that notice.
- 4.9 We will charge you for all Partner Services performed up to the end of the 30 calendar day notice period.
- 4.10 In addition, where you have requested a fixed term to receive Partner Services Support Services and you cancel early, you may receive an Early Termination Charge (ETC). The ETC is determined by calculating 25% of the service fees payable by you for the remainder of the fixed period.

Variation to quoted price

- 4.11 Where your Application Form sets out a price for Partner Services which is not calculated on a time and materials basis, that price is subject to you providing your inputs and materials as required by this section of Our Customer Terms and to the assumptions and dependencies set out in your application form remaining valid and being fulfilled.
- 4.12 Where the quoted price will be impacted as a result of any change to the factors above by you or as agreed between you and us, we will be entitled to charge you reasonable additional fees which relate solely to these factors provided that:
- (a) we notify you as soon as possible after we become aware of one of these factors occurring; and
 - (b) we tell you what additional fees will be charged.
- 4.13 If the increased price which we notify to you above is more than 20% higher than the original price you may cancel the supply of Partner Services by notice to us within 5 business days of the date we notify you of the increased price. Where you exercise this right to cancel, you must pay us for all Partner Services performed before up to the date of cancellation and must pay any additional charges set out in your Application Form, but you will not be required to pay any other early termination charges in connection with the relevant Professional Services.
- 4.14 A fixed price may also be varied as a result of an agreed change as set out under Change management above.

5 PARTNER SERVICES EQUIPMENT

Subject to availability

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

Failure to deliver Partner Services or Partner Services Equipment by the Customer Requested Date

- 5.4 Subject to the Australian Consumer Law provisions in the General Terms of Our Customer Terms, we are not bound by the Customer Requested Date on the Application Form and will not be responsible for the failure to deliver the Partner Services and/or the Partner Services Equipment by the Customer Requested Date on the Application Form.
- 5.5 We will not be responsible for any loss (either direct or consequential) that you may suffer caused by the failure to deliver the Partner Services and/or Partner Services Equipment to you by the Customer Requested Date on the Application Form.

Title and risk

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

Recovery

- 5.8 You agree that:
 - (a) we reserve the right to repossess the Partner Services Equipment if you do not pay the fee for the Partner Services Equipment;
 - (b) you grant us an irrevocable licence for our employees, agents or contractors to enter your premises or the premises where the Partner Services Equipment is located with reasonable notice (and you must obtain permission for us to enter such premises) in order to repossess the Partner Services Equipment pursuant to clause 5.8(a) above; and
 - (c) it is your obligation to ensure the adequacy of the security of the Partner Services Equipment on your premises including preventing fraudulent intrusions into and/or unauthorized use of the Partner Services Equipment and to take all reasonable steps to prevent unauthorised disclosure of any passwords.

Cancellation of Partner Services Equipment Order

- 5.9 If you cancel an order for Partner Services Equipment after we have ordered it for you but before it has been to you (unless as a result of our material breach), in addition to any other

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rights we may have, we may, at our sole discretion, require you to pay for the Partner Services Equipment that has been ordered for you or the reasonable expenses we have incurred up to the date that you cancel your order. If we require you to pay for the Partner Services Equipment you will be entitled to keep the Partner Services Equipment that you have paid for.

Warranty

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

Intellectual property rights

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

6 GENERAL

Confidentiality

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

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

Responsibility for your inputs

- 6.3 You are responsible for any loss, damage, liability, costs or expenses (**Loss**) incurred by us and that arises naturally (that is, according to the usual course of things) as a result of a claim that any inputs or material provided by you or its use by us in accordance with your Partner Services or Partner Services Equipment infringes the intellectual property rights of any person, except to the extent such a claim is caused or contributed to by us. We will take reasonable steps to mitigate our Loss incurred as a result of such a claim.