



# Short form Services Agreement

Phone Systems Brisbane Pty Ltd ACN 600 201 009

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## 1. Service Agreement

This Agreement is between Phone Systems Brisbane Pty Ltd ACN 600 201 009 (**PSB, us, we, our** or other similar terms) and the Customer (**Customer, you, your** or other similar terms) who is requesting the service (**Service**).

This Agreement applies to any Service requested by you, if:

- (a) you do not have another agreement with us; or
- (b) the Service you have requested is beyond the scope of an existing agreement you have with us.

You are deemed to have read, understood and accepted these terms and conditions if at any time you receive notification of these terms and accept receipt of the Service.

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## 2. Payment for the Services

We will invoice you and you must pay the amount due on the invoice within 7 days of the date of the invoice.

If the you fail to pay any amount under this Agreement by the due date, we may immediately, without any liability, until all overdue fees are paid, do any or all of the following:

- (a) charge you an interest on the overdue amount at 10% above the Reserve Bank of Australia cash rate;
- (b) initiate proceedings against you to recover the overdue amount; and
- (c) recover all costs associated with recovering overdue amounts, including but not limited to legal costs and outlays on a full indemnity basis.

Unless otherwise set out in writing, the Services will be provided to you at the default rates set out below (**Default Rates**):

- (a) Service call within Brisbane CBD Metro area \$125 + GST.
- (b) Incorrect call out fee \$325 + GST.
- (c) IP technician \$200 + GST per hour.
- (d) Telephone technician \$160 + GST per hour.
- (e) Administration staff \$95 + GST per hour.

You are also liable to pay the costs associated with any parking, materials or parts used in providing the Services. Unless otherwise provided for in writing all prices quoted are GST exclusive.

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## 3. Delivery of Services

We will perform the Services set out in each service ticket or as otherwise agreed with you, subject to this Agreement. The Services will be provided within any timeframes set out in the service ticket and where no timeframe is provided, within a reasonable time.

We may appoint employees or agents to provide all or part of the Services and such entities are bound by the same obligations as us.

Where we are required to perform the Services at your premises, you agree to provide us with access, equipment and other facilities as are reasonably required to provide the Services. If we, through no fault of our own, cannot obtain access to your premises, we may in our sole discretion reschedule the Services and invoice you for lost time at our Default Rates.

The Services will be deemed complete when the testing criteria, relevant to the details set out in the service ticket, are met.

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#### 4. Service limitations

We use reasonable efforts in providing the Services, however other than as set out in this Agreement, to the fullest extent permitted by law, we do not take any responsibility for faults, delays, or interruptions caused by delays, action, or inaction by you or any third party.

Circumstances where the completion of Service may be delayed include, delays due to:

- (a) building access issues or incomplete construction;
- (b) the unavailability of replacement parts, IT hardware, software or personnel;
- (c) the incompatibility of IT hardware not provided by us or third party software;
- (d) incomplete, missing or faulty data, electrical cabling services or infrastructure associated with the Services, which do not comprise part of the Services we provide; or
- (e) the unavailability, reliability, delivery or faults associated with voice or data links provided by any telecommunications provider.

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#### 5. Customers obligations

You acknowledge and agree you must undertake an isolation test before reporting broadband and Session Initiation Protocol (SIP) trunk faults. Where you fail to undertake these tests and we are called out you are liable to pay the incorrect call out fee plus our usual hourly rates.

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#### 6. Liability

Where you are a consumer within the meaning of the Australian Consumer Law, there are certain rights (such as the consumer guarantees, which cannot by law be excluded (**Non-Excludable Condition**)). This clause is subject to those Non-Excludable Conditions.

You acknowledge and agree you are acquiring goods and Services under this Agreement for commercial purposes and not for domestic, personal or household use.

Subject to the application of any applicable Non-Excludable Condition and to the maximum extent permitted by law, we:

- (a) exclude from this Agreement all guarantees, conditions and warranties that might but for this clause be implied into this Agreement;
- (b) exclude all liability to you for any costs, expenses, losses and damages suffered or incurred directly or indirectly by you in connection with this Agreement, whether that liability arises in contract, tort (including negligence) or under statute;
- (c) are not liable for changes you, your staff or a third party make to equipment which we have installed;
- (d) exclude all liability to you, for any faults in equipment, or failings in the services, provided by third parties;
- (e) will not be liable to you for any consequential loss or liquidated damages; and
- (f) are not liable, in any way, for a hacking event carried out by a third party.

If our liability under this Agreement cannot be lawfully excluded, to the maximum extent permitted by law, Our liability for breach of any Non-Excludable Condition is limited:

- (a) in the case of goods, to (at our option) the replacement of the goods or the supply of equivalent goods; the repair of the goods; the payment of the cost of replacing the goods or of acquiring equivalent goods; or the payment of the cost of having the goods repaired; and
- (b) in the case of services, to (at our option) the supply of the services again; or the payment of the cost of having the services supplied again.

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## 7. Indemnity

You indemnify us and our representatives against all liability arising from claims for:

- (a) any personal injury or death arising directly or indirectly out of your or your personnel's conduct;
- (b) any damage to property arising directly or indirectly out of the your or your personnel's conduct;
- (c) any negligent or unlawful act or omission by your or your personnel; and
- (d) our or a third party's reliance on a misleading representation made by your or your personnel.

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## 8. Termination

This Agreement terminates when the Services have been performed and the invoice(s) for those services have been paid. However, the parties may agree in writing to terminate this Agreement at some earlier time.

Termination of this Agreement does not affect your obligation to pay any outstanding amounts for Services rendered (in whole or part) or any payments for goods which we have purchased specifically for the purpose of delivering the Services to you.

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## 9. General

**Governing law** - The laws of Queensland govern this Agreement. Each of the parties hereby submits to the non-exclusive jurisdiction of courts with jurisdiction there.

**Inconsistency with other agreements** - If this Agreement is inconsistent with any other active agreement between the parties, the other agreement prevails to the extent of the inconsistency.

**Severability** - Any clause of this Agreement, which is invalid or unenforceable, is ineffective to the extent of the invalidity or unenforceability without affecting the remaining clauses of this Agreement.

### **Unforeseen Event -**

- (a) The obligations of the parties under this Agreement are suspended to the extent that occurrences or conditions beyond its control, including but not limited to acts of terrorism, computer or phone system hacking, acts of God, war, health epidemic, strikes, civil disorder, disasters, earthquake, fire, flood, lockout, embargo, failure of suppliers, equipment failures or changes to government regulations (**Unforeseen Event**) which affects them, as long as the Unforeseen Event continues. However, if an Unforeseen Event continues for more than 60 days, we may terminate this Agreement by notice in writing to you of not less than 14 days.
- (b) A party claiming an Unforeseen Event must use their best endeavours to remove, overcome or minimise the effects of that Unforeseen Event as quickly as possible.
- (c) The occurrence of an Unforeseen Event does not suspend your obligation to pay any money under this Agreement.