



**ZettaGrid Pty Ltd**

**Standard Form of Agreement**

**General Terms and Conditions**

Revised 13-Dec-2011

<b>1</b>	<b>THE AGREEMENT .....</b>	<b>4</b>
1.1	THE PARTIES.....	4
1.2	WHAT IS THE STANDARD FORM OF AGREEMENT? .....	4
1.3	ACCESS TO THE SFOA DOCUMENT .....	4
1.4	CHANGES TO THE SFOA.....	4
1.5	YOUR RIGHTS.....	4
<b>2</b>	<b>DEFINITIONS.....</b>	<b>4</b>
<b>3</b>	<b>OUR SERVICES .....</b>	<b>5</b>
3.1	APPLYING FOR THE SERVICE .....	5
3.2	ASSESSING YOUR APPLICATION .....	5
3.3	PROVISIONING YOUR SERVICE .....	5
3.4	CONNECTION, TRANSMISSION AND RECEPTION SPEEDS .....	5
<b>4</b>	<b>SERVICE USAGE .....</b>	<b>5</b>
4.1	YOUR RESPONSIBILITIES .....	5
4.2	RESPONSIBLE USAGE .....	6
4.3	SECURE USAGE.....	6
4.4	UNLAWFUL USAGE .....	6
4.5	ALLEGED COPYRIGHT INFRINGEMENT NOTICES .....	6
4.6	UNAUTHORISED USAGE.....	6
4.7	SERVICE CANCELLATION.....	7
4.8	SERVICE TERMINATION .....	7
4.9	SYSTEMS MAINTENANCE .....	7
4.10	FAULT REPORTING & RESOLUTION .....	7
4.11	SERVICE CHANGES .....	8
4.12	SERVICE LEVEL AGREEMENT.....	8
4.13	SUPPORT SERVICES .....	9
<b>5</b>	<b>BILLING AND PAYMENTS .....</b>	<b>9</b>
5.1	BILLING .....	9
5.2	BILLING DISPUTES .....	9
5.3	PAYMENTS .....	9
5.4	REFUND POLICY .....	10
5.5	COOLING OFF PERIOD .....	10
<b>6</b>	<b>PERSONAL INFORMATION .....</b>	<b>10</b>
6.1	COLLECTION, USE AND DISCLOSURE .....	10
6.2	OPTING-OUT.....	11
6.3	GAINING ACCESS TO YOUR PERSONAL INFORMATION .....	11
6.4	PROVIDING YOUR PERSONAL INFORMATION .....	11
6.5	NOTICES .....	11

6.6	ASSIGNMENT .....	11
<b>7</b>	<b>OTHER TERMS .....</b>	<b>11</b>
7.1	OUR RIGHTS .....	11
7.2	LIABILITY .....	11
7.3	COSTS .....	11
7.4	PRECEDENCE .....	11
7.5	WARRANTIES.....	12
7.6	INDEMNIFICATION.....	12
7.7	COMPLAINTS PROCEDURE.....	12
7.8	CUSTOMER SERVICE GUARANTEE .....	12
7.9	GOVERNING LAW .....	12
7.10	LEGAL CAPACITY .....	12

# 1 The Agreement

## 1.1 The Parties

1.1.1 ZettaGrid Pty Ltd ABN 90 141 800 357, Level 5, 10 William Street, Perth, Western Australia (hereinafter referred to as "ZettaGrid", "us", "our") and the Customer (being an entity subscribing to ZettaGrid for the provision of Cloud services) agree that by accessing ZettaGrid services, you (hereinafter referred to as "The Customer", "you" and "your") accept, without limitation or qualification, the terms and conditions contained within the Standard Form of Agreement.

## 1.2 What is the Standard Form of Agreement?

1.2.1 The ZettaGrid Standard Form of Agreement (or SFOA) sets out the standard terms and conditions of our services and products we offer. The SOFA is made up of:

- a) General Terms and Conditions
- b) Service Descriptions
- c) Pricing Schedule

## 1.3 Access to the SFOA Document

1.3.1 The Standard Form of Agreement is available via our website or from our office. If you require assistance in reading this document please contact our office.

## 1.4 Changes to the SFOA

1.4.1 Customer agrees to be bound by our SOFA as displayed at the ZettaGrid Internet web site [www.zettagrid.com](http://www.zettagrid.com).

1.4.2 The Customer understands that SFOA can be amended from time to time and the Customer should visit the ZettaGrid web site regularly to be aware of any changes.

## 1.5 Your Rights

1.5.1 Telecommunications Legislation requires ZettaGrid to supply telecommunications services to you on the terms and conditions of a "Standard Form of Agreement".

1.5.2 Under Australian Telecommunications legislation you and we must comply with our Standard Form of Agreement unless you and we have agreed differently.

# 2 Definitions

**"Agreement"** means this agreement for the provision of the Supplies by ZettaGrid to you, which includes this Standard Form of Agreement, the Service Descriptions and Pricing Schedule.

**"Application"** means each application form completed by you (either hard copy or online on our Website) and sent to ZettaGrid requesting the Services;

**"Charges"** means the charges payable by you to ZettaGrid for the Services as specified on the Pricing Schedule, Quotes or other means.

**"Customer Data"** means all data that is not ZettaGrid Data.

**"Early Termination Fee"** means the Charges that are specified as "Early Termination Fee" in the Pricing Schedule (if any);

**"Goods"** means any goods we supply to you, including goods supplied in connection with any Services;

**"GST"** means Goods and Services Tax (Act 1999)

**"Pricing Schedule"** means the list of prices for services contained on the website <https://www.zettagrid.com/whmcs/cart.php>.

**"Service Desk"** means the contact point for Faults, which you may contact by dialling the telephone number or submitting and email to a specified address in an applicable Service Description Schedule; the available standard support hours are from 0600HRS to 1800HRS Western Standard Time.

**"Services"** means the range of services available for purchase from ZettaGrid and listed at <https://www.zettagrid.com/whmcs/cart.php>.

**"Services Proposal"** means a document authored by ZettaGrid containing a business proposal for approval by the Customer.

**"Systems Maintenance"** means maintenance carried out by ZettaGrid, where notice has been provided to you by email or posting a notice on the ZettaGrid website prior to the scheduled event occurring.

**"Service Guarantee"** means guarantee that it will meet the Service Level for a particular Service;

**"Service Level"** means the actual number of hours during a calendar month that a Service is available to you.

**"Service Level Rebate"** means the refund available for a Service following an outage as defined in the Service Description for that Service.

**"Standard Form of Agreement"** means this document entitled "Standard Form of Agreement" and includes our Policies;

**"Summary Standard Form of Agreement"** means the written summary of the terms and conditions of this Standard Form of Agreement;

**"Telecommunications Company"** means any licensed carrier or carriage service provider as defined by the Telecommunications Act 1997 other than ZettaGrid;

**"Term"** means, in respect of a Service, the contract

period specified in the Application for that Service.

**"Website"** means the ZettaGrid website located at <https://www.zettagrid.com>

2.1.1 **"ZettaGrid Data"** means ZettaGrid configuration and supporting infrastructure configuration (i.e. ZettaGrid's core DNS, DHCP, Microsoft AD, VMware vCloud-Director Cells, VMware vCenters, and Microsoft SQL Database clusters) and customer machine configuration (i.e. the details about your virtual machines seen in the 'My Services' pages).

## 3 Our Services

### 3.1 Applying for the Service

3.1.1 You may make an Application for supply of one or more Goods and Services by:

- a) Completing an online application form located at [www.zettagrid.com](http://www.zettagrid.com) or;
- b) Faxing or delivering a completed ZettaGrid Services Proposal.

3.1.2 Our SFOA is enforceable:

- a) if you apply online, the date you submit the application form;
- b) if you sign a ZettaGrid Services Proposal, the date the Agreement is executed.

### 3.2 Assessing Your Application

3.2.1 When you request ZettaGrid to supply the Service to you, we will decide whether to accept your Application and to supply the Service to you based on:

- a) the particular terms for that Service;
- b) your eligibility for that Service;
- c) you meeting our credit requirements;
- d) the accuracy of the information provided to ZettaGrid by you and
- e) your prior conduct or history in respect of any previous supply agreements;

3.2.2 We reserve the right to check your details with credit referencing bodies/associations.

3.2.3 We may refuse your Application for any reason, without being obliged to provide any reason to you.

### 3.3 Provisioning Your Service

3.3.1 Subject to acceptance under clause 3.2.1, the commencement of the service is the date on which the service is made available for use.

3.3.2 Upon our acceptance of your Application, or, if applicable, execution of this Agreement by

ZettaGrid and you, a contract is formed and you become bound by this Agreement and the Term and charges associated with the Service. The contract between ZettaGrid remains in force until it is terminated in accordance with this Agreement.

3.3.3 We will retain control and decide the route and technical means that we use to provide the Service.

3.3.4 You must reasonably co-operate with ZettaGrid to allow us to provision and supply the Service to you safely and efficiently.

3.3.5 The Customer agrees that, if the Customer uses the online application system and provides incorrect information which is actioned by a third party, that they, the Customer, will be liable for a resubmission payment to ZettaGrid.

3.3.6 To maintain the quality of services provided to our customers, we may also prioritise the delivery of network traffic that is latency, rate or jitter sensitive in preference to traffic that is not, as determined in our absolute discretion.

3.3.7 The Goods and Services are provided on an 'as-is' basis.

3.3.8 A delay may occur between approval of your application and the provisioning of the Service. We are not and will not be responsible for any delays associated with provision of a Service, nor any inability by ZettaGrid to provide the Service to you.

### 3.4 Connection, Transmission and Reception Speeds

3.4.1 Any connection, reception and transmission speeds indicated refer to the maximum theoretical speeds achievable with the Supplies under ideal conditions, and you acknowledge that the actual achieved speeds may be substantially different from the theoretical speeds.

## 4 Service Usage

### 4.1 Your Responsibilities

4.1.1 You must provide true, current, accurate and complete information as prompted by the registration form. You further agree to keep ZettaGrid current on any changes in that information.

4.1.2 You are responsible for all acts or omissions that occur under your account or password, including the content of transmissions through the Services and maintaining the confidentiality of your password/s.

- 4.1.3 You will not publish, distribute or disseminate defamatory or otherwise unlawful material through the use of the Service.
- 4.1.4 You will not use the Service to threaten, harass, stalk, abuse, or otherwise violate the legal rights (including rights of privacy) of others.
- 4.1.5 You will not use the Service to infringe on any third party's copyright, patent, trademark, trade secret or other proprietary rights or rights of publicity or privacy.
- 4.1.6 You will comply with Australian law regarding the transmission of technical data exported from Australia through ZettaGrid.
- 4.1.7 You must ensure that your use of the Service does not expose any minor to material that is unsuitable for minors and you will indemnify ZettaGrid for any liability we incur as a result of your breach of this clause. You may obtain advice on available content filtering software which may be of assistance to you from the following [web page: http://www.ii.net.au/guideuser.html](http://www.ii.net.au/guideuser.html)
- 4.1.8 You acknowledge that it is your sole responsibility to comply with any rules imposed by any third party whose content or service you access using the Services.
- 4.1.9 You acknowledge that we may take all reasonably necessary steps to ensure the efficient operation of the Services.
- 4.1.10 ZettaGrid will be responsible for backup of all ZettaGrid Data.
- 4.1.11 You are responsible for backup of all Customer Data.
- 4.1.12 Your failure to observe any of the foregoing limitations may result in civil or criminal liability, and the immediate termination of your Service.
- 4.2 **Responsible Usage**
- 4.2.1 You must comply with rules, regulations and acceptable usage policies that are in force for each system you access. If you act recklessly or irresponsibly or your actions endanger our network or systems, your access may be suspended or terminated at any time, without notice.
- 4.3 **Secure Usage**
- 4.3.1 We require that you take responsibility for maintaining the security of your Service. Protection of the security aspects of your service, like accounts and passwords, are your responsibility. Subsequent usage of your service by a third party will result in you being responsible for the charges incurred.

#### 4.4 **Unlawful Usage**

- 4.4.1 Our Services may only be used for lawful and authorised purposes. Storage, transmission or distribution of any material in violation of Commonwealth or State legislation is prohibited. This includes copyright material, material legally judged as threatening or obscene, or material protected by trade secret.
- 4.4.2 You must not use, or allow any other person to use, the network and systems for any activities of an illegal or fraudulent nature, including any activities prohibited under the Telecommunications Act 1989 (Cth) or under other applicable state and/or Commonwealth Laws.
- 4.4.3 You may not use the Service to send, allow to be sent, or assist in the sending of Spam or otherwise or breach the Spam Act 2003.

#### 4.5 **Alleged Copyright Infringement Notices**

- 4.5.1 Where ZettaGrid is provided with reasonable evidence from copyright owners or their agents that alleges that you may be using the Service unlawfully we will:
  - a) Send you an Alleged Copyright Infringement Notice (ACIN) by email. This email will contain the reference to specific alleged copyrighted content or unlawful activity.
  - b) Request that you remove the alleged copyrighted content and or cease the alleged unlawful activity within 72 hours.
- 4.5.2 Where the provision of alleged copyrighted content or unlawful activity has not ceased after 72 hours from the receipt of the notice, ZettaGrid will limit your Services in order to enforce the restriction of the dissemination of alleged copyrighted content or the activity.

- 4.5.3 If you provide reasonable evidence to suggest the unauthorised use of your Service or a breach and subsequent resolution of your own policies resulted in the issue of the notice from the copyright holder we may waive the ACIN.

- 4.5.4 Where we issue you with more than three ACIN's within a 30 day period you will be classified as a repeat offender and your Service will be terminated under clause 4.8.1.

#### 4.6 **Unauthorised Usage**

- 4.6.1 Any attempt to access or modify unauthorised computer system information or to interfere with normal system operations, whether on the equipment of ours or any computer system or network that is accessed by our services, may result in the suspension or termination of your access. Unauthorised activities include, but are

not limited to, guessing or using passwords other than your own, accessing information that does not have public permission, and accessing any system on which you are not welcome.

4.6.2 Any attempt to disrupt or interfere with users, services or equipment, may result in the termination or suspension of your access. Disruptions include, but are not limited to, distribution of unsolicited advertising or spamming, monopolisation of services, propagation of, or transmission of information or software which contains, computer worms, trojan horses, viruses or other harmful components, using the network to make unauthorised entry to any other machine accessible via our network, sending harassing or threatening e-mail, and forgery or attempted forgery of e-mail messages and Usenet news postings.

4.6.3 You will be held liable for, and indemnify ZettaGrid for, all costs and damages, attributable to your unauthorised activities or disruptions.

#### 4.7 Service Cancellation

4.7.1 Customers are required to contact ZettaGrid 4 days prior to the end of their contract period should they wish to cancel their service. If we do not receive notification from the customer prior to the end of their contract period the service will roll over for the next billing period in accordance with our Service Description.

4.7.2 Where your Service has not been provided for a minimum period you will be eligible for an Early Termination Fee as described in the Pricing Schedule.

4.7.3 New Services may be cancelled within seven (7) days of application and will be eligible for a full refund of the reoccurring service charge and excluding any setup or once-off charges.

#### 4.8 Service Termination

4.8.1 Without limiting the generality of any other Clause in this Agreement, we may terminate your Agreement immediately by notice in writing if:

- a) you have provided ZettaGrid with false or misleading information or you have not provided ZettaGrid with any information that we have reasonably requested for the purposes of this Agreement;
- b) your nominated payment method is refused or dishonoured, or you fail to pay the amount specified on any due date specified in the bill.
- c) we discover or reasonably believe that you are a minor or do not believe you have the authority to enter into this agreement;

d) we believe you are about to or may become or are in jeopardy of becoming subject to any form of insolvency administration;

e) if you being a partnership, dissolve, threaten or resolve to dissolve or are in jeopardy of dissolving;

f) you unlawfully use the Service.

g) you are classified as an alleged repeat copyright offender as per clause 4.5.4.

4.8.2 We may terminate this Agreement (otherwise than under Clause 4.8.1) for any reason on thirty (30) days notice in writing to you (unless the applicable Service Schedule specifies a longer notice period, in which case that longer notice period must be provided), in which case Clauses 5.4.1 will apply.

#### 4.9 Systems Maintenance

4.9.1 Our goal is to provide a fault free Service although we cannot guarantee this. We will endeavour to conduct all scheduled maintenance during periods of low activity. However, we may be required to suspend supply of our Services during normal working hours in order to carry out emergency repairs on our systems.

#### 4.10 Fault Reporting & Resolution

4.10.1 Customers may report service faults by:

- a) Telephone contact to the ZettaGrid Service Desk on 1300 597 656
- b) Email to support@zettagrid.com
- c) Each fault will be assigned a unique ticket number. Please use this ticket number when referring to your query.

4.10.2 Issuing of this ticket number is an acknowledged acceptance of the fault report.

4.10.3 The Service Desk team will use best efforts to identify and resolve the fault.

4.10.4 Where the issue cannot be resolved by the Service Desk they will follow a procedure to escalate the ticket to a technical expert for further investigation.

4.10.5 When a ticket has been resolved or closed the customer will receive an email notifying them of the status change of the ticket.

4.10.6 If you ask us to come to your premises to repair a fault and it turns out to be caused by your equipment you may be charged a callout fee.

4.10.7 It is your responsibility to maintain and repair any equipment which you own. You are also responsible for any of our equipment on your

premises and you must pay us for any loss or damage to our equipment.

#### 4.11 Service Changes

4.11.1 We may withdraw any plans or account types packages at any time, such changes will take effect from the end of current contract period.

4.11.2 Customers may transfer/migrate from any plan to another plan. Fees and a new contract period will commence once provision for the service has been completed.

4.11.3 Any fees for transfer/migration between plans are detailed in the Pricing Schedule.

#### 4.12 Service Level Agreement

4.12.1 We will set minimum performance targets and provide rebates if the Service fails to meet these targets.

4.12.2 The rebates available for specific Services are detailed in the Service Description Schedules.

4.12.3 Where the Service is unavailable due to scheduled Systems Maintenance then this period is exempt from Service Level Rebates.

4.12.4 Where the Service is unavailable due to events beyond our control then this disruption period is exempt from Service Level Rebates. These include the following events:

- a) Interruption of the Service due to any Telecommunications Company circuits or failure of any Telecommunications Company services;
- b) Interruption of the Service due to your applications, your equipment, or your facilities;
- c) Where you cause and interruption of the Service due to your acts or omissions, or any use of the Service authorised by you;
- d) Where the Service is interrupted due to force majeure;
- e) Where we are requested by a public authority to provide emergency communications services to assist in emergency action, and the provision of those services restricts rectification of a fault or service difficulty; and
- f) Where we are prevented from connecting a specified service, or rectifying a fault or service difficulty, because we are unable to obtain lawful access to land or a facility.
- g) Damage to our network, equipment or facilities not caused by ZettaGrid.

h) Planned or Unplanned speed degradation (Not Service Loss), unless otherwise specified in a Service Description.

4.12.5 A Service rebate is not redeemable for cash and in any month is capped at the relevant specified percentage of the Charges for the Individual Service for that month. You must claim any Service rebate in writing within 10 working days of the event resolution by submitting a Service Rebate Application which is available on the ZettaGrid website.

4.12.6 Once a claim is made in accordance with paragraph 4.12.5, we will calculate the Service Rebate (if applicable) for the Service at the conclusion of the calendar month and credit to your account the amount equal to the Service rebate.

4.12.7 You will only be entitled to receive a rebate under either this Service Description or the Related Service Description, whichever has the greater entitlement.

4.12.8 You acknowledge that we do not warrant the availability or other characteristics of the Service or that any target provisioning, installation, response or rectification times will be met.

4.12.9 Subject to paragraphs 4.12.10 and 4.12.11, we will be liable to pay damages to you under section 118A of the Consumer Protection Act only if the End User has made a claim against you for breach of the Customer Service Guarantee and you, acting reasonably, have paid that claim. The amount of damages payable by we will reflect the proportionate contribution of ZettaGrid to your failure to comply with the Customer Service Guarantee.

4.12.10 In relation to contributory payments under Section 118A of the Consumer Protection Act, you acknowledge, to the extent this information is relevant under section 118A of the Consumer Protection Act, that the following are elements to be considered when determining liability:

- a) the extent to which you fail to take advantage of any available exemptions from compliance with the Customer Service Guarantee (or where entitled to do so under the Customer Service Guarantee, fails to extend guaranteed maximum rectification periods);
- b) requirements of good engineering practices;
- c) requirements for reasonable use of the Service; and
- d) the diagnostic information provided by you to us at the time the fault giving rise to the claim was notified by you to us.



4.12.11 To the extent that we are liable to make contribution payments to you under section 118A of the Consumer Protection Act, the amount of ZettaGrid's contribution to each payment made by you to End Users for breach of the Customer Service Guarantee will be reduced by the total amount of credits or rebates payable under this Schedule in relation to the matter that gave rise to ZettaGrid's liability to make contributions to you under Section 118A of the Consumer Protection Act.

#### 4.13 Support Services

4.13.1 Our Services include Service Desk support during commissioning of the Services. Once you have successfully provisioned your ZettaGrid services and/or gained any additional Services you have purchased from us, we have fulfilled our support obligations to you.

4.13.2 Additional support may be provided, although it may be at an additional cost to you in the event that the reported problem is due to faults in your software, operating systems or applications.

4.13.3 We cannot provide free support for:

- a) faults that are outside our system (or)
- b) customers that do not have an existing Agreement with us

## 5 Billing and Payments

### 5.1 Billing

5.1.1 We may bill you for:

- a) recurring or fixed charges, in advance;
- b) variable charges, in arrears, including but not limited to excess traffic usage charges;
- c) installation or set-up charges, before installation occurs;
- d) any equipment you purchase from us, on or after delivery;
- e) for any charges defined in the Pricing Schedule.

5.1.2 We will bill you in accordance with the billing period described in the Service Description.

5.1.3 We will provide you with reasonable information on your use of our services via the ZettaGrid website.

5.1.4 Bills will be calculated by reference to data recorded, logged or received by our systems and our Suppliers and you acknowledge that in calculating charges we need only look at that data as logged or received by ZettaGrid or our Suppliers.

5.1.5 Bills may include charges from previous billing periods where these have not been remitted.

5.1.6 We may reissue any invoice if any error is discovered. If you have overpaid as a result of a billing error, your account will be credited with the overpayment or, if you have stopped acquiring the Service from ZettaGrid we will refund the overpayment within 30 days.

5.1.7 Subject to clause 5.2.1, you must pay each amount billed by the due date specified in the bill and in the manner specified in the Service Description or the Pricing Schedule.

5.1.8 Bills and receipts will be available in an electronic document format and distributed to you via email.

### 5.2 Billing Disputes

5.2.1 Where you dispute the bill sent to you by ZettaGrid please provide a written notice to us within 14 days of the issue date. You will need to specify:

- a) The specific line items in dispute.
- b) Reasons for disputing each of the charges

5.2.2 We will assess the validity of these claims and provide a written response within 5 business days.

5.2.3 Where a billing dispute is found to be in our favour you will be required to pay the outstanding amounts by the due date. Where this due date has passed, you will be obliged to pay all outstanding monies within 24 hours.

### 5.3 Payments

5.3.1 You are responsible for and must pay for all use of the Service, even unauthorised use.

5.3.2 We reserve the right to charge the customer all fees specified in this agreement, unless otherwise agreed in writing by the customer and ZettaGrid.

5.3.3 The Customer may elect to have their bills paid by way of:

- a) a direct debit from an account held by the Customer at an approved financial institution
- b) An accepted credit card (Visa, MasterCard)
- c) Direct Deposit

5.3.4 Accepted payment types vary for each good and service. Please see the Service Description for accepted payment types for each good and service.

5.3.5 The Customer is responsible for ensuring there are sufficient funds available in their nominated

credit card or direct debit account at any time we bill the account.

- 5.3.6 Dishonour fees and any other charges, expenses or losses resulting from ZettaGrid attempting to debit the credit card or direct debit account will be borne solely by the Customer.
- 5.3.7 The Customer hereby authorises ZettaGrid to charge any excess usage of their account at the current rate applicable in the Pricing Schedule.
- 5.3.8 Where the Customer provides a credit card for payment of reoccurring goods and services, the customer authorises ZettaGrid to debit this card for the fees and on a frequency as set out in the Pricing Schedule.
- 5.3.9 We will notify you by email, then by phone if your credit card is due to expire in the next billing period.
- 5.3.10 In addition to fees and charges you incur in the normal use of your service, we may charge you an administration fee which may include cancellation fees, relocation fees and/or payment dishonour fees. These charges are outlined in our Pricing Schedule.
- 5.3.11 Dishonoured cheques incur a \$16.50 inc GST handling charge.
- 5.3.12 Direct Debit rejections incur a \$20.00 inc GST charge.
- 5.3.13 All administration, registration and set-up fees are non-refundable.
- 5.3.14 Customers may exchange or receive a refund for equipment which has not been opened or used and has been returned to us within 30 days of purchase.
- 5.3.15 To request a copy of a tax invoice please contact customer service on 1300 597 656.
- 5.3.16 We reserve the right to suspend or terminate your Service without notice upon rejection of any card, cheque or direct debit charges or if your card issuer (or its agent or affiliate) seeks return of payments previously made to ZettaGrid when we believes you are liable for the charge. Such rights are in addition to and not in lieu of any other legal rights or remedies available to ZettaGrid.

## 5.4 Refund Policy

- 5.4.1 If we terminate this Agreement under Clause 4.8.1, you will not be entitled to a refund in respect of the Goods or Services;
- 5.4.2 If we terminate this Agreement under Clause 4.8.2, we will provide you with a refund in respect of the Supplies for which you have paid in advance but which have not been supplied by

ZettaGrid, calculated at the applicable monthly rate;

- 5.4.3 If you validly terminate this Agreement as a result of our breach, your only remedy will be:
  - a) In respect of Services or Other Services, subject to clause 5.4.5 a refund for the services for which you have paid in advance but which have not been supplied by us, calculated at the applicable daily rate; and/or
  - b) In respect of Goods, a refund of the amount you have paid for the Goods;
- 5.4.4 If you request a change in an applicable Service Schedule for the Services (for example, if you select a different Service plan) such that the new Charges for the Services payable each Due Date ("New Charges") differ from the previous Charges payable each Anniversary Date ("Previous Charges"), then:
- 5.4.5 Each Service is billed monthly blocks from the relevant Service Anniversary Date. If we terminate that Service pursuant to clause 4.8.2, you terminate that Service pursuant to clause 4.7.1, we will refund you for any unused portion of that Service that you have paid for in advance in full monthly blocks. However, if you have used any part of any full monthly block for that Service we will not provide a refund in respect of that month.

## 5.5 Cooling Off Period

- 5.5.1 You may request a refund of monies paid within the first 7 days of the original date of purchase of the service. This is referred to as the "cooling off period". Setup or once-off charges are not refundable.

## 6 Personal Information

### 6.1 Collection, Use and Disclosure

- 6.1.1 We may collect, use and disclose personal information about you, to decide whether to start, stop or limit supply to you of personal credit, the service or the products and services of ZettaGrid.
- 6.1.2 We may collect, use and disclose personal information about you (which may include, for example, numbers called, time of call, location of call) for purposes related to the supply of the service (or for purposes which would be reasonably expected) including billing and account management, business planning and product development, and to provide you with information about promotions, as well as the products and services of ZettaGrid and other organisations.

6.1.3 We may collect, use and disclose personal information about you (which may include, for example, numbers called, time of call, location of call) for the purposes in paragraphs (a) and (b) above to or from a credit reporting agency or credit provider, third parties who are not related to ZettaGrid, including our agents, dealers, contractors and franchisees, suppliers who need access to your personal information to provide ZettaGrid with services to allow supply of the service, and joint venture partners of ZettaGrid.

6.1.4 We may be permitted or required by applicable laws to collect, use or disclose personal information about you (which may include, for example, IP addresses, internet traffic details, numbers called, time of call, location of call), including to:

- a) the operator of the Integrated Public Number Database (IPND), which is an industry wide database of all public number customer data,
- b) emergency services organisations, and
- c) to law enforcement agencies and government agencies for purposes relating to the enforcement of criminal and other laws.

## 6.2 Opting-out

6.2.1 If you wish to only receive communications that are account-related or legally required, you may request not to receive other communications (that is, you may 'opt out'). You will need to contact Service Desk to make a request to opt-out. We will not charge you for processing a request to opt-out.

## 6.3 Gaining Access To Your Personal Information

6.3.1 If you are an individual, you are entitled to:

- a) gain access to your personal information held by ZettaGrid, unless we are permitted or required by any applicable law to refuse such access, and
- b) correct any personal information held by ZettaGrid.

## 6.4 Providing Your Personal Information

6.4.1 If you do not provide part or all of the personal information we request, then we may refuse to supply, or limit the supply to you of, personal credit or the service.

## 6.5 Notices

6.5.1 All notices and changes shall be in writing and shall be hand delivered, or sent by post, or facsimile, or email to the parties hereto at their respective addresses.

## 6.6 Assignment

6.6.1 The Customer and ZettaGrid agree not to assign or, transfer any of the services provisioned by ZettaGrid under this Agreement or any rights given by the use of this service, unless prior written permission from an authorised officer.

# 7 Other Terms

## 7.1 Our Rights

7.1.1 We reserve the right to remove any information or materials, in whole or in part, that we, in our sole discretion, deem to be offensive, obscene, indecent, or otherwise inappropriate regardless of whether such material or its dissemination is unlawful.

7.1.2 We are under no obligation to monitor transmissions or published content on the Services.

7.1.3 However, we or our agents have the right to monitor such transmissions or published content from time to time.

## 7.2 Liability

7.2.1 We shall not be held liable in any way or by any means for any direct or indirect, special or consequential damages, resulting from the use or the inability to use the Services or from any goods or service purchased or obtained or message received or transaction entered into through ZettaGrid or from unauthorised access to or alteration of your transmission or data to your e-mail address, even if we have been advised of the possibility of such damages.

7.2.2 We are not liable for any delay or failure to perform resulting directly or indirectly from any causes beyond our reasonable control. Our liability to you or any third party is limited to the Service Level Rebates described in the Service Schedule.

## 7.3 Costs

7.3.1 ZettaGrid has the right to recover reasonable costs reasonably incurred from the Customer for any costs incurred for damages and/or repairs and/or maintenance and/or loss of business caused by, or resulting from, any of the activities listed in clauses 4.1.1 through to 4.6.3 inclusive.

## 7.4 Precedence

7.4.1 Where any conflict or inconsistency exists in the documents and/or schedules the following precedence is in effect:

- a) General Terms and Conditions
- b) Service Descriptions

c) Pricing Schedule

7.5 **Warranties**

7.5.1 We expressly disclaim all warranties of any kind whether express or implied. We make no warranties that Services will meet your requirements, or that Services will be uninterrupted, secure, or error free, or the results that may be obtained from the use of Services, or to the accuracy or reliability of any communication or transmission of data, or the accuracy of any information obtained through Services or that defects in the software will be corrected.

7.5.2 We make no warranty regarding any goods or service purchased or obtained through Service or any transaction entered into through Services. We take no responsibility for the deletion or failure to backup Customer Data. No advice or information, whether oral or written, obtained by you from ZettaGrid or through Services shall create any warranty by ZettaGrid.

7.6 **Indemnification**

7.6.1 You agree to indemnify ZettaGrid, its parents, subsidiaries, representatives and employees from any claim or demand, including solicitors' fees, arising out of your use of the Service, including any violation of this Agreement by you or any other person using your account, or any claim of libel, defamation, violation of rights of privacy or publicity, loss of service by other customers and infringement of intellectual property or other rights.

7.7 **Complaints Procedure**

7.7.1 We are committed to resolving customer complaints quickly and in a satisfactory manner. If you have a complaint, we request that you:

- a) Contact [support@zettagrid.com](mailto:support@zettagrid.com) or call 1300 597 656. A ticket number will be created and assigned to your complaint.
- b) If you are not satisfied with our review and response to your complaint you may contact the Office of Fair Trading in your state or territory.

7.8 **Customer Service Guarantee**

7.8.1 The Customer Service Guarantee as part of the Telecommunications Act 1999 prescribes mandatory performance standards for certain telecommunications services. We will comply with such standards to the extent that they apply to the Services offered.

7.9 **Governing Law**

7.9.1 This Agreement shall be deemed to have been made in Perth, Australia, and it shall be

governed and interpreted according to the laws, including conflict of laws, applicable in the State of Western Australia. Each of the parties submits to the jurisdiction of the Courts of Western Australia.

7.10 **Legal Capacity**

7.10.1 You confirm that you are at least 18 years old and that you have the legal capacity to enter into this agreement.