

# 1TB Pty Ltd trading as 1TB Computing and VoiP-iT

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## Terms and Conditions of Service

### 1. DEFINITIONS

#### In these conditions:

"**Conditions**" means these Conditions of Provision of Goods and Services;

"**Customer**" means a person, firm or corporation jointly and severally if there is more than one, acquiring goods or services from 1TB Pty Ltd;

"**goods**" means goods supplied by 1TB Pty Ltd to the customer and includes any software licences;

"**services**" means services supplied by 1TB Pty Ltd to the Customer; and "1TB Pty Ltd" means the trading name of 1TB Pty Ltd (A.C.N 126 153 044).

### 2. BASIS OF CONTRACT

- 2.1 Unless otherwise agreed by 1TB Pty Ltd in writing, these Conditions apply exclusively to every contract for the sale of goods and services by 1TB Pty Ltd to the customer and cannot be varied or substituted by any other conditions without the prior written consent of 1TB Pty Ltd.
- 2.2 Any written quotation written by 1TB Pty Ltd to the customer concerning the proposed supply of goods or services is valid for 14 days and is an invitation only to the Customer to place an order based on the quotation. The conditions may include the additional terms in 1TB Pty Ltd' quotation which are not inconsistent with the Conditions.

### 3. CHARGES AND PAYMENT

- 3.1 Payment of Goods and Services must be made by cash, cheque or EFT on or prior to the completion of the provision of goods and services.
- 3.2 The charges for service are at our standard hourly rate unless otherwise agreed, with a minimum charge of 30 minutes. All charges are exclusive of G.S.T of 10%.
- 3.3 After the minimum charge, 1TB Pty Ltd visits are charged in half hour units. Any part thereof is chargeable at the same rate as a full half hour.
- 3.4 If the Customer chooses to cancel a 1TB Pty Ltd fixed service agreement before the fixed period is finished, then the cancellation fee will be one month's charge of the agreement.
- 3.5 All goods supplied by 1TB Pty Ltd are charged separately from the service.

- 3.6 Where there is any change in the costs incurred by 1TB Pty Ltd in relation to the goods or services, 1TB Pty Ltd may vary its price for goods or services in order to take account of any such change, upon giving notice to the Customer.
- 3.7 Where a 1TB Pty Ltd employee is required to travel within 15km of the Launceston GPO, the normal standard service charge applies.
- 3.8 Where a 1TB Pty Ltd employee is required to travel outside this area, the normal standard service charge applies together with an additional charge of \$0.75 per kilometre travelled. Any other cost incurred relating to travel expenses will be charged to the Customer.

#### **4. PAYMENT DEFAULT**

- 4.1 If the customer defaults on payment by the due date of any amount payable to 1TB Pty Ltd, or if any cheque drawn by the Customer is dishonoured, then all money that would become payable by the Customer to 1TB Pty Ltd at a later date on any account, becomes immediately due and payable without the requirement of any notice to the Customer, and 1TB Pty Ltd may, without prejudice of any other remedy available to it:-
  - (a) charge the Customer interest on any sum due at the prevailing rate pursuant to the Supreme Court Civil Procedure Act 1932 for the period from the due date until the date of payment in full;
  - (b) charge the Customer for all expenses and costs (including legal costs on a solicitor/own client basis and dishonoured cheque fees) incurred by it resulting in the default and in taking whatever action it deems appropriate to recover any sum due;
  - (c) cease or suspend for such period as 1TB Pty Ltd thinks fit, supply of any further goods or services to the Customer;
  - (d) by notice in writing to the customer, terminate any contract with the customer so far as unperformed by 1TB Pty Ltd without effect on the accrued rights of 1TB Pty Ltd under any contract.
- 4.2 Clauses 4.1(c) and 4.1(d) may also be relied upon, at the option of 1TB Pty Ltd:
  - (a) where the Customer is an individual and becomes bankrupt or enters into any scheme of arrangement or any assignment of composition with or for the benefit of his or her creditors or any class of his or her creditors generally; or
  - (b) where the Customer is a corporation and, it enters into any scheme of arrangement or any assignment or composition with or for the benefit of its creditors or any class of its creditors generally, or has a liquidator, provisional liquidator, administrator, receiver or receiver and manager appointed, or any action is taken, or with the view to, the liquidation (including provisional liquidation), winding up or dissolution without winding up of the Customer.

## 5. PASSING OF PROPERTY

- 5.1 Until full payment in cleared funds is received by 1TB Pty Ltd for all goods supplied by it to the Customer, as well as other amounts owing to 1TB Pty Ltd by the customer:-
- (a) title and property in all goods remain vested in 1TB Pty Ltd and do not pass to the Customer;
  - (b) the Customer must hold the goods as fiduciary bailee and agent for 1TB Pty Ltd;
  - (c) the Customer must keep the goods separate from its goods and maintain the labelling and packaging of the goods;
  - (d) the Customer is required to hold the proceeds of any sale of the goods on trust for 1TB Pty Ltd in a separate account however failure to do so will not affect the Customer's obligation to deal with the proceeds as trustee;
  - (e) 1TB Pty Ltd may without notice, enter any premises where it suspects goods may be and remove them, notwithstanding that they may have been attached to other goods not the property of 1TB Pty Ltd, and for this purpose the Customer irrevocably licenses 1TB Pty Ltd to enter such premises and also indemnifies 1TB Pty Ltd from and against all costs, claims, demands or actions by any party arising from such action.

## 6. RISK INSURANCE

The risk in the goods and all the insurance responsibility for theft, damage or otherwise in respect of the goods will pass to the Customer immediately upon delivery of the goods to the premises nominated by the Customer

## 7. PERFORMANCE OF CONTRACT

- 7.1 Any period or date for delivery of goods and provision of services stated by 1TB Pty Ltd is intended as an estimate only and is not a contractual commitment.
- 7.2 1TB Pty Ltd will use its best reasonable endeavours to meet any estimated dates for delivery of the goods or completion of the services.
- 7.3 1TB Pty Ltd does not warrant that it will be able to fix all problems which it diagnoses.
- 7.4 Nothing in clause 7.2 is to be taken to mean that a solution will be provided in any particular time, or for any particular amount of money.
- 7.5 1TB Pty Ltd may be required to make more than one visit to client's premises to correctly diagnose any problem. If more than one visit is required, any visit after the first will be chargeable.
- 7.6 The decision as to whether a solution has been diagnosed is in the reasonable discretion of 1TB Pty Ltd.

## 8. 1TB PTY LTD WARRANTIES

- 8.1 All goods and services supplied shall be free from defects in materials and workmanship for a period of 30 days from the date of delivery.
- 8.2 This warranty does not apply in circumstances where:
- (a) the goods or services are not defective;
  - (b) the goods were used or services required for a purpose other than which they were intended;
  - (c) the goods were repaired, modified or altered by any person other than 1TB Pty Ltd;
  - (d) the defect has arisen due to misuse, neglect or accident;
  - (e) the defect has arisen due to normal wear and tear on the goods;
  - (f) the goods have not been stored or maintained as recommended by 1TB Pty Ltd or the manufacturer;
  - (g) the Customer is in breach of the Conditions;
  - (h) the Customer has altered the hardware or software configuration of the Customer's computer after the completion of the services; or
  - (i) the Customer has terminated the services of 1TB Pty Ltd before, in the reasonable opinion of 1TB Pty Ltd, the services have been completed.

## 9. LIABILITY

- 9.1 Except as specifically set out herein, any term, condition or warranty in respect of the quality, fitness for purpose, condition, description, assembly, manufacture, design or performance of the goods or services, whether implied by statute, common law, trade usage, custom or otherwise, is hereby expressly excluded.
- 9.2 Replacement or repair of the goods or resupply of the services is the absolute limit of 1TB Pty Ltd's liability howsoever arising under or in connection with the description, quality, condition, performance, assembly, manufacture, design, merchantability or fitness for the purpose of the goods or services or alternatively the sale, use of, storage or any other dealings with the goods or services by the Customer or any third party.
- 9.3 1TB Pty Ltd is not liable for any program or data loss or damage by any Customer arising directly or indirectly from the provision of goods and services.
- 9.4 Any replacement of parts under warranty will be carried out at the premises nominated by 1TB Pty Ltd. The cost and risk of transport of any defective part to the nominated premises is the responsibility of the Customer.
- 9.5 1TB Pty Ltd is not liable for any indirect or consequential losses or expenses suffered by the Customer or any third party, howsoever caused, including but not limited to loss of turnover, profits, business or goodwill or any liability to any other party.

- 9.6 1TB Pty Ltd will not be liable for any loss or damage suffered by the Customer where 1TB Pty Ltd has failed to meet any delivery date or cancels or suspends the supply of goods or services.
- 9.7 Nothing in the Conditions is to be interpreted as excluding, restricting or modifying or having the effect of excluding, restricting or modifying the application of any State or Federal legislation applicable to the sale of goods or supply of services which cannot be excluded, restricted or modified.

## **10. COPYRIGHT IN SOFTWARE**

- 10.1 1TB Pty Ltd will not be responsible to the customer or any third party for any breach of any software licence in respect to software provided to 1TB Pty Ltd by the Customer to be installed on a Customer's computer.
- 10.2 The Customer hereby indemnifies 1TB Pty Ltd against any loss, damage, costs, harm or other expense whatsoever arising either directly or indirectly as a result of 1TB Pty Ltd installing software at the request of the Customer.

## **11. CANCELLATION**

- 11.1 If, through circumstances beyond the control of 1TB Pty Ltd, 1TB Pty Ltd is unable to effect delivery or provision of goods or services, then 1TB Pty Ltd may cancel the Customer's order (even if it has already been accepted) by notice in writing to the Customer.
- 11.2 If the Customer cancels any order for goods or services after it has been placed with 1TB Pty Ltd, then the Customer may be liable for any costs associated with the cancellation including but not limited to freight, re-stocking, losses suffered by 1TB Pty Ltd in connection with non-returnable goods and any administrative fees or labour incurred by 1TB Pty Ltd.