

New Zealand Terms and Conditions

1. Definitions & Interpretation

ITogether will use the following definitions and rules of interpretation in this agreement:

"Acts"	the Telecommunications Act 2001, the Telecommunications (Interception Capability and Security) Act 2013, and the Privacy Act 2020 (each as amended from time to time).
"Charges"	all connection charges, rental charges, installation charges, or additional charges payable by the Customer.
"Conditions"	these terms and conditions as amended from time to time.
"Contract"	the contract between ITogether and the Customer for the supply of Products and/or Services in accordance with these Conditions.
"Customer"	the person or firm who purchases the Products and/or Services from ITogether.
"Industry Agreements"	any standard industry agreements or third-party agreement which impact upon ITogether's ability to provide the Products and Services.
"Initial Term"	the period of time stated in any specific Service contract commencing from the Service Start Date as set out in the Proposal.
"ITogether"	means Network Integration Technologies (APAC) Limited 9 Salisbury Street, Hearne Bay, Auckland 1011, New Zealand
"Legislation"	all Acts of Parliament and statutory regulations, instruments or orders, codes of practice, and all applicable international laws, treaties, directives, and other legislation as any of the same may be amended or replaced from time to time.
"NZCC"	the New Zealand Commerce Commission or successors from time to time.
"Order"	the Customer's written acceptance of ITogether's Proposal.
"Proposal"	ITogether's proposal to provide the Products and/or Services.

"Products"	means the products to be provided to the Customer as set out in the Proposal or Order.
"Proposed Start Date"	the date specified or as amended on which the Service is due to be made available to the Customer.
"Service Start Date"	the Proposed Service Start Date or if different the earlier of the date upon which the Customer is notified the Service is available for use or the date the Customer begins using the Service.
"Site"	the Site where the Products and/or Services are to be provided.
"SLA"	the Service Level Agreement for the Services as agreed by the parties (if relevant).
"Users"	any individual authorised by the Customer to use the Products and/or Services.
"Working Day"	Monday to Friday 9:00 am to 5:00 pm inclusive except for New Zealand bank and public holidays.

2. Order Acceptance

- 2.1 Any Order placed by the Customer, whether written or oral, shall constitute an offer to ITogether under these Conditions subject to the availability of the Products and Services and to acceptance of the order by ITogether's authorised representative. Any quotation given by ITogether does not constitute an offer capable of acceptance.
- 2.2 The Order shall only be deemed to be accepted when ITogether issues written acceptance of the Order at which point, and on which date the Contract shall come into existence.
- 2.3 Any samples, drawings, descriptive matter, or advertising issued by ITogether and any descriptions of the Products or illustrations or descriptions of the Services contained in ITogether's catalogues or brochures or website (<http://www.itogether.co.uk>) and (<http://www.itogether.com>) are issued or published for the sole purpose of giving an approximate idea of the Services and/or Products described in them. They shall not form part of the Contract or have any contractual force.

- 2.4 These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice, or course of dealing.
- 2.5 Any quotation given by ITogether shall not constitute an offer and is only valid for the period specified on the Proposal.
- 2.6 All of these Conditions shall apply to the supply of both Products and Services except where application to one or the other is specified.

3. Delivery of Products and Services

- 3.1 ITogether shall ensure that:
 - 3.1.1 each delivery of the Products is accompanied by a delivery note which shows the date of the Order, all relevant Customer and ITogether reference numbers, the type and quantity of the Products (including the code number of the Products, where applicable), special storage instructions (if any), and, if the Order is being delivered by instalments, the outstanding balance of Products remaining to be delivered; and
 - 3.1.2 it states clearly on the delivery note any requirement for the Customer to return any packaging material to ITogether. The Customer shall make any such packaging materials available for collection at such times as ITogether shall reasonably request.
- 3.2 ITogether shall deliver the Products to the location set out in the Order or such other location as the parties may agree (Delivery Location) at any time after ITogether notifies the Customer that the Products are ready.
- 3.3 Delivery of the Products shall be completed on the completion of unloading of the Products at the Delivery Location. Where the Order states that ITogether will install the Products as part of the Services, Delivery will be completed upon completion of the Services.
- 3.4 Any dates quoted for delivery of the Products and performance of the Services are approximate only, and the time of delivery is not of the essence. ITogether shall not be liable for any delay in delivery of the Products or performance of the Services that is caused by a Force Majeure Event or the Customer's failure to provide ITogether with adequate delivery instructions, prepare the Delivery Location for the

performance of the Services, or any other instructions that are relevant to the supply of the Products and/or Services.

- 3.5 If ITogether fails to deliver the Products and/or perform the Services, its liability shall be limited to the costs and expenses incurred by the Customer in obtaining replacement goods and services of similar description and quality in the cheapest market available, less the price of the Products. ITogether shall have no liability for any failure to deliver the Products or perform the Services to the extent that such failure is caused by a Force Majeure Event or the Customer's failure to provide ITogether with adequate delivery instructions for the Products, prepare the Delivery Location for the performance of the Services, or any relevant instruction related to the supply of the Products and/or Services.
- 3.6 If the Customer fails to accept delivery of the Products within three Business Days of ITogether notifying the Customer that the Products are ready, then except where such failure or delay is caused by a Force Majeure Event or by ITogether's failure to comply with its obligations under the Contract in respect of the Products:
- 3.6.1 delivery of the Products shall be deemed to have been completed at 9.00 am on the third Business Day following the day on which ITogether notified the Customer that the Products were ready; and
- 3.6.2 ITogether shall store the Products until delivery takes place and charge the Customer for all related costs and expenses (including insurance).
- 3.7 If 10 Business Days after ITogether notified the Customer that the Products were ready for delivery the Customer has not accepted delivery of them, ITogether may resell or otherwise dispose of part or all of the Products.
- 3.8 ITogether may deliver the Products by instalments, which shall be invoiced and paid for separately. Each instalment shall constitute a separate contract. Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment.
- 3.9 Where ITogether are reselling Products for direct delivery to the Customer it is the Customer's responsibility to organise the inspection of the Products.

3.10 Unless the Customer:

- 3.10.1 submits written notice to ITogether within three days of delivery to the effect that the Products are not those ordered or are damaged or subject to shortage; and

- 3.10.2 in all respects complies with the terms and conditions of the carrier (if any); the Customer shall be deemed to have accepted the Products and shall not be entitled to reject the Products which are not in accordance with the Contract.
- 3.11 If the Customer gives written notice as to reject the Products, the Customer shall comply with ITogether's instructions, or the instructions of ITogether's nominated third party, concerning the return or retention for inspection of such Products which shall be at the Customer's risk until back in the possession of ITogether, or ITogether's nominated third party's possession.
- 3.12 In no event shall the Customer be entitled to reject the Products on the basis of any defect or failure which is so slight that it would be unreasonable for the Customer to reject the Products.

4. Title and Risk

- 4.1 The risk in the Products shall pass to the Customer on completion of delivery.
- 4.2 Title to the Products shall not pass to the Customer until the earlier of:
- 4.2.1 ITogether receives payment in full (in cash or cleared funds) for the Products and Services supplied in which case title to the Products shall pass at the time of payment of all such sums; and
- 4.2.2 the Customer resells the Products, in which case title to the Products shall pass to the Customer at the time specified in clause 4.3.
- 4.3 Subject to clause 4.6, the Customer may resell or use the Products in the ordinary course of its business (but not otherwise) before ITogether receives payment for the Products. However, if the Customer resells the Products before that time:
- 4.3.1 it does so as principal and not as ITogether's agent; and
- 4.3.2 title to the Products shall pass from ITogether to the Customer immediately before the time at which resale by the Customer occurs.
- 4.4 If before title to the Products passes to the Customer the
- Customer becomes subject to any of the events listed in 12.1.1 and 12.1.2, then, without limiting any other right or remedy ITogether may have:

- 4.4.1 the Customer's right to resell Products or use them in the ordinary course of its business ceases immediately; and
- 4.4.2 ITogether may at any time:
 - 4.4.2.1 require the Customer to deliver up all Products in its possession which have not been resold, or irrevocably incorporated into another product; and
 - 4.4.2.2 if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Products are stored in order to recover them.

5. Provision of the Products and Services

- 5.1 ITogether will use reasonable endeavours to provide Products and Services in accordance with industry service standards and will use reasonable skill and care in the provision of Products and Services. However, the Customer acknowledges that the Products and Services cannot be provided fault-free and ITogether do not warrant error-free or uninterrupted use of the Products and Services.
- 5.2 The Services will be provided, where relevant, in accordance with the SLA.
- 5.3 ITogether does not guarantee the continuing availability of any particular Product or Service and the Customer acknowledge that ITogether may be dependent upon third parties when providing the Products and Services. Notwithstanding any other provisions of these Conditions but subject to clause 11.1 ITogether will not be liable to the Customer in contract, tort (including negligence) or otherwise for the actions of any third party that affect or otherwise impact upon the provision of the Products and Services.
- 5.4 ITogether shall not be liable in respect of any loss or damage caused by or resulting from any variation for whatsoever reason in the manufacture's specifications or technical data and will not be responsible for any loss or damage resulting from curtailment or cessation of supply following such variation. ITogether will use its reasonable endeavours to advise the Customer of any such impending variation as soon as ITogether receives any notice thereof from the manufacturer.
- 5.5 Unless otherwise agreed the Products are supplied in accordance with the manufacturer's standard specifications as these may be improved, substituted, or modified. ITogether reserve the right to increase quoted or listed price or to charge according in respect of any orders accepted for Products and Services of non-

standard specifications and in no circumstances will it consider cancellation of such orders or return of the Products.

6. Returns

6.1 Damage to Products incurred as a result of any returns remains the liability of the Customer.

6.2 ITogether reserves the right to refuse to credit Products returned which ITogether is unable to resell for any reason.

6.3 ITogether will not accept a request for Products to be returned where the Products have been specially procured for the Customer.

6.4 Where Products and Services have been ordered in error by the Customer, ITogether may, at its absolute discretion, consider accepting the Products back but only where they meet the requirements of 6.1 to 6.3.

6.5 Where ITogether agrees to take back the Products, ITogether reserves the right to charge a handling charge of 50% plus any collection costs incurred by ITogether.

7. Warranty

7.1 ITogether sells the Products and Services with the benefit of the manufacturer's warranty subject to the terms and conditions of such warranty but ITogether shall have no further liability to the Customer.

7.2 Failure by the Customer to pay any sum owing will render the applicable warranty null and void.

7.3 The Customer shall be responsible for the cost of carriage and insurance in respect of all Products returned to the manufacturer for the repair or replacement.

8. Customer Obligations

8.1 The Customer shall, at the Customer's own expense:

8.1.1 Procure all consents, licences, and permissions necessary from landlords or other third parties for the carrying out of preparation work, installation of Products and Services and for the use and operation of the Products and Services at the site. If the Customer occupies and owns the site(s) in which the Customer is taking Products

and Services, by entering into these Conditions the Customer gives ITogether permission to install Products and Services on the Site(s);

- 8.1.2 Provide such site and building plans (to include full details of all internal cabling runs) of the site(s) as requested by ITogether;
- 8.1.3 Provide ITogether with full details of all other Products and Services in the vicinity of any proposed works;
- 8.1.4 Ensure that any unique or special conditions applicable to the site(s) that may affect the installation and maintenance of any Products and Services are made known to ITogether in writing at the detailed planning stage;
- 8.1.5 Prepare the site in accordance with any instructions notified in advance by ITogether and provide ITogether with such assistance as ITogether may reasonably require for the purposes of carrying out the installation and connection of any Products and Services;
- 8.1.6 Ensure that any network serving the site to which the Products and Services are to be connected is available for use upon request by ITogether and is not moved or modified without notification in writing to ITogether;
- 8.1.7 Advise ITogether in writing of all health and safety at work rules and regulations, of all dangerous objects and substances and any other reasonable security requirements applicable at the Site;
- 8.1.8 Provide such continuous supply of electrical current and connection sockets as may be required for the installation, operation, and maintenance of the Products and Services;
- 8.1.9 Ensure that any Products and Services in use by the Customer that are not provided by ITogether are disconnected and ceased in accordance with relevant terms and conditions placed upon the Customer, thereby enabling ITogether to provide the Products and Services requested by the Customer, where applicable; and
- 8.1.10 Provide ITogether or ITogether's nominated third parties with such facilities as they may reasonably require in order to install any Products and Services, provide the Products and Services, and otherwise perform ITogether's obligations under these Conditions.

- 8.2 In the event that ITogether or the Customer are not able to procure the necessary consent to provide the Products and Services within three months from the Order Date ITogether will be able to terminate the Contract without liability.
- 8.3 If the Customer has not managed to procure the necessary consents and ITogether have commenced work, the Customer will refund ITogether (at ITogether's written request) the cost of all such work (including, without limitation, staff costs and Products and Services costs) undertaken to date.
- 8.4 The Customer will indemnify and keep ITogether indemnified from and against all costs, (including without limitation, any legal costs or disbursements on an indemnity basis), expenses, damages, liabilities, losses, actions, suffered by ITogether, directly or indirectly and whether wholly or in part resulting from failure by the Customer to comply with these Conditions. ITogether will not be liable to the Customer where ITogether is unable to carry out its obligations under these Conditions as a result of a breach by the Customer of the provisions of these Conditions.
- 8.5 All commercial information whether written, or oral, shall be treated as confidential and should not be divulged to a third party whereby disclosure of commercial information would prejudice the commercial interest of any person/entity.
- 9. Use of the Products and Services**
- 9.1 The Customer will ensure that any Users will use the Products and Services only in accordance with the relevant provisions of Acts and any other relevant Legislation.
- 9.2 The Customer will not use nor permit any User or third party to use the Products and Services in any way in connection with, any message or communication which is offensive, abusive, indecent, obscene, or menacing or which does, or is intended to, cause annoyance, inconvenience, or worry or which is illegal, fraudulent, defamatory, an act of treason or which (in ITogether's reasonable opinion) brings the name of ITogether into disrepute or in any way which intentionally or recklessly causes damage or disruption to the Products and Services.
- 9.3 Both parties agree to fully co-operate with the Police and any other relevant authorities (including but not limited to the Inland Revenue, the Trading Standards Office and/or NZCC and any successors from time to time) in connection with any misuse or suspected misuse of the Products and Services and the Customer consents to ITogether co-operating with any other authority in connection with any fraudulent activity related to or connected with the Products and Services and agree that

ITogether will be entitled to divulge the name and address and account information relating to the Customer to such third parties.

10. Changes to Products and Services

- 10.1 ITogether, or its nominated third parties, may from time to time make changes to Product and Service standards. Such changes will be notified to the Customer not less than 30 days prior to their taking effect.
- 10.2 Any Orders for additional Products and Services will be governed by these Conditions only. If the Customer submits any orders or requests for additional Products and Services it will always be on the basis that these Conditions apply to the exclusion of all other terms and conditions that the Customer may attempt to incorporate or imply.
- 10.3 If the Customer requests ITogether to change the location of any Products and Services the Customer shall pay ITogether all applicable charges for re-connections and associated work.

11. Charges

- 11.1 The Customer will pay ITogether all appropriate Charges at the times and frequencies as set out in this clause 11 or in the Proposal. Where there is any conflict between this clause and the Proposal, the Proposal takes precedence.
- 11.2 Where in order to provide the Customer with Products and Services, it is necessary in ITogether or its nominated third parties', reasonable opinion to use non-standard or exceptionally expensive methods (whether in whole or in part) or where a substantially greater cost than usual is incurred by ITogether, or its nominated third parties, as to render ITogether's, or its nominated third parties', standard charges inappropriate ITogether may charge an additional charge, or pass on ITogether's nominated third parties' additional charges. If ITogether, or its nominated third parties, decide to do so, ITogether will inform the Customer in writing.
- 11.3 All Charges due (except where payment is made by Direct Debit) are payable within 30 days of the date of the relevant invoice and will be paid in full without any set-off, deduction or withholding of any kind. In line with 'The Late Payment of Commercial Debts Regulations 2013 (the Regulations), ITogether reserves the right to charge daily interest on any outstanding amounts until payment is received in full at a rate equal to the Reserve Bank of New Zealand reference rate plus 8%, as

current from time to time whether before or after judgment and/or suspend the Products and Services in whole or in part until such Charges have been paid in full.

- 11.4 ITogether reserves the right to charge the Customer all the costs incurred by ITogether for recovering the debt from the Customer.
- 11.5 If at any time, in the reasonable opinion of ITogether, the Customer's financial standing changes adversely or the Customer persistently default in paying the Charges then ITogether may request a security deposit against non-payment of Charges. If the Customer fail to provide such security deposit within 10 Working Days then ITogether reserves the right to suspend and or terminate the Products and Services (either in whole or in part) with immediate effect by giving the Customer written notice.
- 11.6 All prices are given by ITogether at the time of the Contract and unless otherwise agreed the Customer are liable to pay for the cost of delivery. ITogether may give notice to the Customer at any time before delivery a price increase of the Products and Services to reflect any increase in the cost to ITogether.
- 11.7 Professional Services day rates, where applicable, are inclusive of out-of-pocket expenses and reasonable travelling time. Out-of-pocket expenses do not include overnight accommodation, associated subsistence, or rail and air travel which will be charged separately at cost by ITogether to the Customer when required.
- 11.8 Professional Services days are valid for only twelve (12) months from the order date. All unused Professional Services days thereafter cannot be claimed by the Customer, unless otherwise agreed, but will be charged in full.
- 11.9 All charges are exclusive of value added tax and any other applicable taxes which may be levied from time to time.

12. Termination

- 12.1 If either party is:
- 12.1.1 In breach of any provision of these Conditions and fails to remedy such breach within 30 days of written notice to do so;
- 12.1.2 Unable to pay its debts as they fall due or threatened to suffer any resolution to wind up its business or enter into voluntary or compulsory liquidation or have an administrator, administrative receiver, receiver or any analogous officer appointed

overall or part of its assets; then the other party may immediately upon notice in writing (without prejudice to any other right and remedies it may have) terminate (either in whole or in part) these Conditions.

ITogether may terminate (either in whole or in part) the Contract with immediate effect if:

the Customer is in breach (or ITogether reasonably believe the Customer is in breach) of clauses 9.1 or 9.2 as breach may be a criminal offence and/or cause serious harm to ITogether's reputation; or

ITogether's authorisations to provide the Products and Services are altered in a way that is material to the Products and Services.

ITogether will continue to provide the Products and Services until termination of the Contract but if:

the Customer is late in making any due payment, or

ITogether became entitled to terminate the Contract early for any reason, or

the Customer breaks any material term of another contract with ITogether or

ITogether's nominated third parties; then ITogether may partially or completely suspend the Products and Services without limiting ITogether's ability to enforce other remedies that may be available. While the Products and Services are suspended the Customer must continue to pay the Charges.

If the Customer chooses to terminate the Contract or another contract with ITogether prior to the end of any Initial Term, the Customer must give ITogether not less than 30 days' written notice, unless otherwise stated in the Proposal. However, in the event that these Conditions or another contract is terminated in pursuance of this clause prior to the end of an Initial Term then the Customer will pay ITogether a Termination Payment. The Termination Payment will be the relevant charges payable for the remaining months of the Initial Term appropriate to the contract terminated.

The Customer acknowledges that ITogether's Charges, and those of any nominated third parties, have been calculated on the basis that a contract for a Product and/or Service will continue until the end of its Initial Term as ITogether, and its nominated third parties, have spent money on set up costs and accordingly agree

that it is reasonable for ITogether to require payment of the Termination Payment as calculated above.

Upon termination, the Customer will cease to use the Products and Services accordingly and will pay to ITogether all outstanding charges due up to and including the date of termination.

The expiry or termination of the Contract or another contract will be without prejudice to any other rights either party may be entitled to and will not affect any accrued rights or liabilities of either party.

13. Limitation of Liability

- 13.1 Nothing in these Conditions shall limit either party's liability for fraud, or for death or personal injury resulting from its own negligence or that of its employees, subcontractors, or agents.
- 13.2 Except as expressly provided in these Conditions, all conditions, warranties, terms, undertakings, and obligations express or implied by statute (including, without limitation, those of satisfactory quality or of fitness for a particular purpose (even if that purpose is made known expressly or by implication to ITogether)), common law, custom, trade usage or otherwise and all liabilities in respect of the same (if any) are excluded to the maximum extent permitted by New Zealand Law.
- 13.3 ITogether will in no circumstances be liable to the Customer in contract, tort (including negligence) or otherwise for any loss of business; loss of data; loss of profits; loss of goodwill; loss of anticipated savings even when advised of the possibility; loss of revenue; or any indirect or consequential losses, liabilities, or costs. Both parties accept liability in respect of damage to the other's tangible property resulting from its or its employees' negligence.
- 13.4 Subject to clause 13.1, ITogether's total liability to the Customer, whether in contract, tort (including negligence), breach of statutory duty or otherwise, arising under or in connection with the Contract, shall be limited to the total charges paid by the Customer to ITogether under the Contract.
- 13.5 The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 and the terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.
- 13.6 This clause 13 shall survive termination of the Contract.

14. Force Majeure

14.1 ITogether will not be liable to the Customer for any loss or damage caused to or suffered by the Customer as a direct or indirect result of the supply of Products and Services being prevented, restricted, hindered, or delayed by reason of any circumstance outside of ITogether's control (Force Majeure Event).

15. Data Protection

15.1 Both parties agree to comply with the Privacy Act 2020.

15.2 ITogether will use the Customer information (which may include individuals within the Customer organisation's personal data) ("Customer Information") for the purposes of administering these Conditions including handling orders, billing, processing payments, payment collection, and communicating with the Customer regarding the Products and Services. ITogether may pass this Customer Information on to third parties: (a) to undertake these functions on ITogether's behalf; or (b) if required by law.

15.3 ITogether may also contact the Customer organisation (including individuals within the Customer organisation) by letter, telephone or e-mail with details of its Products and Services that may be of interest. If an individual does not wish to receive marketing material from ITogether then please notify us by calling +64 (0)9 802 2444 or email us at hello@itgether.co.nz.

15.4 The Customer may be asked to take part in publicity and promotional activities. By accepting to take part the Customer are agreeing that the Customer project details, images, and footage can be used for publicity purposes. The Customer may be invited to participate in publicity opportunities such as interviews. Each opportunity will be taken on merit and the Customer will have the right to decline any opportunity which the Customer does not wish to be involved with.

16. General

16.1 Entire Agreement - These Conditions, together with the Proposal and the SLA (where applicable) constitute the entire agreement and understanding of the parties and supersede any previous agreement between the parties relating to the Contract.

- 16.1.1 Each of the parties acknowledges and agrees that in entering into this Contract it does not rely on, and will have no remedy in respect of, any statement, representation, warranty or understanding (whether negligently or innocently made) of any person (whether party to the Contract or not) other than as set out in these Conditions. Nothing in these Conditions will operate to limit or exclude any liability for fraud.
- 16.2 Severability - Should any provision of these Conditions be held to be void or voidable the remaining provisions of these Conditions will continue in full force and effect.
- 16.3 Waiver - No forbearance, delay, or indulgence by either party in enforcing the provision of these Conditions will prejudice or restrict the rights of that party nor will any waiver of its rights operate as a waiver of any past or subsequent breach.
- 16.4 Variation - ITogether reserves the right to vary these Conditions to the extent necessary to take into account any changes to Industry Agreements and any relevant Legislation or Regulation. Any other variations must be in writing and agreed between the parties.
- 16.5 Notices - Any notice under or in connection with these Conditions shall unless otherwise agreed be in writing and may be delivered personally or by recorded delivery or registered post to the address of the party concerned set out in these Conditions or any other address notified by that party from time to time. In the case of post, notice will be deemed to have been given 2 working days after the date of posting.
- 16.6 Assignment - The Customer may not assign any of the Customer rights without the prior written consent from ITogether. ITogether may assign any of its rights under the Contract.
- 16.6.1 Jurisdiction - These Conditions will be governed by New Zealand law and the parties submit to the exclusive jurisdiction of the New Zealand courts.