



## Terms and Conditions

### CLOUD PBX AGREEMENT

These terms and conditions, the Quote and the Confirmation of Acceptance together create the GCOMM Cloud PBX Agreement (“**Agreement**”).

The Agreement is concluded as of the date it is executed by both parties signing the Confirmation of Acceptance (“**Effective Date**”). The Customer may sign a physical copy of the Confirmation of Acceptance or digitally sign the Confirmation of Acceptance using EchoSign.

#### 1. Definitions and Interpretations

##### 1.1 Defined terms.

In these Terms and Conditions:

**Acceptable Use Policy** means the acceptable use policy provided by GCOMM to Customer from time to time and is available at <https://gcomm.com.au/legal-terms-of-use/>.

**Basic Support Services** means the services set out in clause 6 of these Terms and Conditions.

**Business Day** means a day that is not a Saturday, Sunday or any other day which is a public holiday or a bank holiday in the place where an act is to be performed or a payment is to be made.

**Business Hours** means between 8.00am to 5.00pm AEST on Business Days.

**Cancellation Fee** means the Minimum Fees minus all Fees actually paid by Customer during the Initial Term prior to termination (where termination of the Agreement occurs during the Initial Term) or during the Renewal Term prior to termination (where termination of the Agreement occurs during the Renewal Term).

**Cloud Services Portal** means GCOMM's portal provided for its customers to access information, request new services or changes to their services at the following URL <http://portal.gcomm.com.au> or <http://partner.gcomm.com.au> or other URL notified by GCOMM from time to time.

**Confidential Information** means any information which is by its nature confidential, is designated as confidential by the party disclosing it, or which ought reasonably be known to be confidential to the party receiving it, and includes information relating to the business or financial affairs of a party or any trade secret, technical knowledge, concepts, ideas, designs, programs, processes, procedures, innovations, databases,

customer lists or information, sales plans or marketing plans, research, software, records, intellectual property or other information concerning a party.

**Corporations Act** means the *Corporations Act 2001* (Cth).

**Confirmation of Acceptance** means a document with that title which, when signed by both parties, will bind the parties to the Agreement.

**Consequential Loss** means special, incidental, indirect or consequential damages, loss of profit, loss of revenue, loss of anticipated savings, loss of chance, loss of opportunity, loss of goodwill or reputation or damage to credit rating.

**Customer** means the party defined in the Quote.

**Customer's Account** means records of services provided to the Customer and charges for them.

**Customer's Authorised Personnel** means the employees of Customer designated to coordinate requests for support services, as agreed between Customer and GCOMM from time to time.

**Customer's Data** means any material including Personal Information provided, or to which access is given, by the Customer to GCOMM in connection with the Service, including documents, reports, technical information, studies, plans, charts, drawings, calculations, tables, trademarks, logos, schedules and data stored by any means.

**Customer Equipment** means any equipment not supplied by GCOMM under this Agreement.

**Customer Network** means Network, equipment, facilities or cabling controlled by Customer.

**Customer Site** means the locations, sites or addresses described in the Quote for the provision of the Service.

**Data Collection** means the process of GCOMM gathering information from Customer that is reasonably required for the purpose of preparing the Quote, configuring the Service, installing Equipment or performing the Service

**Direct Debit Request Form** means the form requesting direct debit or credit card payments as prescribed by GCOMM from time to time.

**Dispute** means a dispute arising out of or relating to the Agreement including without limitation a dispute as to breach or termination of the Agreement or as to any claim in tort, in equity or pursuant to any law.



**Documentation** means the documentation provided by GCOMM to the Customer in connection with the Service.

**EchoSign** is a service provided by an independent third party to facilitate the insertion of digital signatures on to documents.

**Equipment** means the equipment owned by GCOMM and installed at the Customer Site, as set out in the Quote.

**Fees** means the amounts payable by Customer for the Service as specified in the Quote and may include third party charges.

**GCOMM** means GCOMM PTY LTD ACN 074 440 841 of Level 2, Gateway Building, 50 Appel Street, Surfers Paradise, Queensland 4217.

**GCOMM Material** means any documents, equipment, reports, technical information, studies, plan, charts, drawings, calculations, tables, schedules and data stored by any means provided to Customer under the Agreement.

**GCOMM Network** means the Network, Equipment, facilities and cabling used by GCOMM to supply the Service.

**Initial Term** means the term set out in the Quote and starting from the Start Date and if no term is specified, then 12 months from the Start Date.

**Insolvent** means being an insolvent under administration, or insolvent (each as defined in the Corporations Act) or having a controller (as defined in the Corporations Act) appointed, or being in receivership, in receivership and management, in liquidation, in provisional liquidation, under administration, wound up, subject to any arrangement, assignment or composition, protected from creditors under any statute, dissolved (other than to carry out a reconstruction while solvent) or being otherwise unable to pay debts when they fall due, or having something with the same or a similar effect happen under the laws of any jurisdiction.

**Intellectual Property Rights** means all vested contingent and future intellectual property rights including but not limited to copyright, trade marks, logos, service marks, devices, design rights, patents, database rights or other proprietary rights or any rights to registration for the protection of these rights and all renewals and extensions thereof existing in any part of the world whether now known or in the future created.

**LAN** means a network that connects computers and other devices in a single building or a group of buildings.

**Minimum Fees** means the Minimum Fees, if any, set forth on the Service Order Form or the Quote against the particular Service.

**Network** means a system or series of systems that carries or is capable of carrying electronic communications (including data).

**Normal Installation Window** has the meaning [set forth in clause 10(b) below.]

**Personal Information** has the meaning given in the *Privacy Act 1988* (Cth).

**Personnel** of a party includes directors, officers, employees, agents and contractors of that party.

**Privacy Policy** means the privacy policy of GCOMM as provided to Customer from time to time or made available at <https://gcomm.com.au/legal-terms-of-use/>.

**Quote** means the proposal for the Service provided to Customer indicating the Service and Fees.

**Regulator** means any government or statutory body or authority including but not limited to the Australian Communications & Media Authority, the Australian Competition and Consumer Commission, the Australian Information Commissioner, the Australian Communications Industry Forum Limited and the Telecommunications Industry Ombudsman.

**Renewal Term** means the period of 12 months commencing on: (a) the expiration of the Initial Term; or (b) where the Agreement has automatically renewed pursuant to clause 3.3, the expiration of the then-current term.

**Service** means the cloud based PBX service as specified in the Quote and provided in accordance with the Service Levels.

**Service Levels** means the service levels set out in Schedule A (Service Levels - Cloud PBX Service) of these Terms and Conditions.

**Service Software** means certain software to be installed on the Customer's system to enable use of the Service.

**Start Date** means the date from which GCOMM commences the supply of the Service to Customer and issuing the invoices, as notified by GCOMM to Customer.

**Subsequent Legislation** means after the Effective Date:

- (a) amendments to or repeals of any statute, ordinance, code, by law and lawful requirement or direction made under or arising from or through the foregoing (e.g. a requirement of a mandatory code arising under a statute);
- (b) a directive of a regulatory body; and
- (c) registration or determination of a new industry standard or industry code.



**Supplier** means a third party provider of telecommunications services.

**Supplier Network** means any Network, equipment, facilities or cabling controlled by the Supplier.

**Term** means the Initial Term set forth in the Quote and any Renewal Term or any continuation thereof pursuant to clauses 3.3. or 3.4.

**Unreasonable Use** means use of the Service or any telecommunications or Internet services connecting to the Service that is reasonably considered by GCOMM to be fraudulent or to adversely affect the Service (or any telecommunications or Internet services connecting to the Service) or the use of the Service by other GCOMM customers and includes resupplying the Service without the prior written consent of GCOMM or permitting any third party access to the Service in a manner not authorised or permitted under this Agreement.

## 1.2 Interpretations.

- (a) Headings are for convenience only and do not affect interpretation.
- (b) The singular includes the plural and conversely.
- (c) A provision of the Agreement must not be construed to the disadvantage of a party merely because that party was responsible for the preparation of the Agreement or the inclusion of the provision in the Agreement.
- (d) If an act must be done on a specified day which is not a Business Day, it must be done instead on the next Business Day.
- (e) If a party consists of more than 1 person, the Agreement binds each of them separately and any 2 or more of them jointly. An obligation, representation or warranty in favour of more than 1 person is for the benefit of them separately and jointly. A party which is a trustee is bound both personally and in its capacity as a trustee.

## 2. Introduction

- 2.1 This document sets out the Terms and Conditions under which GCOMM agrees to provide the Service to Customer, which represent an integral part of the Agreement.
- 2.2 The Agreement includes, in descending order of precedence (to the extent of any inconsistency):
  - (a) the Quote;
  - (b) the Confirmation of Acceptance;
  - and
  - (c) the Terms and Conditions.

- 2.3 The options selected in the Quote determine what components of the Service are provided by GCOMM.

## 3. Term

- 3.1 The Agreement commences on the Effective Date. Each Service will commence on the Start Date.
- 3.2 The Agreement commences pursuant to clause 3.1 and, subject to earlier termination pursuant to the Agreement, continues until the end of the Initial Term.
- 3.3 Subject to earlier termination pursuant to the Agreement, the Agreement automatically renews for the Renewal Term at the end of the Initial Term and any subsequent Renewal Term UNLESS either party gives not less than 20 Business Days' prior written notice of termination that the Agreement is not to be renewed.
- 3.4 If a notice under clause 3.3 is given but Customer continues to use the Service, then the Agreement continues until either party gives to the other 20 Business Days written notice to terminate.

## 4. Conditions

- 4.1 The following are conditions to the Agreement that must be satisfied prior to Start Date of the Service:
  - (a) Customer has provided credit references to GCOMM and GCOMM has determined that Customer is creditworthy; and
  - (b) GCOMM has determined that it is feasible for Customer's Network and environment to support the Service.
- 4.2 These conditions may be waived by GCOMM. If the conditions are not waived or satisfied, then GCOMM may terminate the Agreement immediately by notice to Customer and each party agrees to return to the other party any equipment it has received from the other party and Customer agrees to immediately remove the Service Software and return the Equipment and the Documentation.

## 5. Provision of Service

- 5.1 GCOMM will use its reasonable endeavours to supply the Service from the Start Date.
- 5.2 GCOMM is responsible for:
  - (a) gathering from Customer all information required to complete the Data Collection ;
  - (b) ordering the Equipment;
  - (c) configuration of the Equipment for installation;



- (d) shipping of the Equipment to Customer Site;
- (e) installation of the Equipment at the Customer Site;
- (f) testing and turn up of the Equipment;
- (g) troubleshooting and resolving issues with the Equipment;
- (h) processing move, add and change requests associated with the Equipment; and
- (i) provision of Basic Support Services in accordance with clause 6.

5.3 GCOMM may subcontract any of its obligations under this Agreement.

5.4 GCOMM is not responsible for any fault which is within a Supplier Network.

5.5 GCOMM:

- (a) does not guarantee that the Service will be supplied uninterrupted or error free;
- (b) makes no warranty in relation to the performance or characteristics of any software, Equipment or other matter or thing supplied in connection with the Service;
- (c) may be required to intercept communications over the Service, keep records of phone calls and IP address and may also monitor Customer's usage of the Service and communications sent over it for the purposes of complying with applicable laws or at the direction of a Regulator; and
- (d) may monitor use of the Service to determine whether Customer is engaging in any Unreasonable Use, complying with GCOMM's Acceptable Use Policy or to investigate a breach or suspected breach of GCOMM's Acceptable Use Policy. GCOMM does not have to monitor use of the Service, whether by Customer or any other person. If, however, GCOMM does monitor use of the Service, GCOMM can cease the monitoring at any time

5.6 Customer acknowledges and understands that Service performance can vary based on the infrastructure of Customer's Network.

5.7 GCOMM will make reasonable efforts to meet the Service Levels. Any Service Level rebates available under Schedule A will be the Customer's sole and exclusive remedy to a failure to meet the Service Levels.

## 6. Provision of Basic Support Services

6.1 GCOMM will provide advice and assistance in relation to the Service by means of a telephone hotline staffed by GCOMM Personnel (**Help Desk**), which will be available during the Business Hours. Further details about the help desk are available on GCOMM's website at [www.gcomm.com.au](http://www.gcomm.com.au).

6.2 Customer's Authorised Personnel may contact the Help Desk for assistance on any of the following relating to the Service:

- (a) report minor faults, raise queries and receive assistance concerning outages, inability to use the Service;
- (b) raise technical issues; and
- (c) amendments to the Service, provisioning, installations, adds, moves and changes to the Service.

6.3 GCOMM's Help Desk will:

- (a) use its reasonable endeavours to fix all verifiable and reproducible faults in the Service that are reported to it by Customer. However, GCOMM cannot guarantee that all faults, issues and queries raised by the Customer will be resolved; and
- (b) initiate service requests made by the Customer.

6.4 GCOMM will, in its own discretion, determine whether the assistance sought by Customer falls within the description of the Basic Support Services set out in clause 6.2. Where the help sought by Customer does not form part of such Basic Support Services, Customer will pay GCOMM for such additional fees at GCOMM's standard rates.

## 7. Modification of Service

7.1 GCOMM reserves the right to modify or substitute any Service and vary the terms of this Agreement in order to be consistent with any agreement between GCOMM and a Supplier or if it is required to do so by changes made by a Supplier that impact on GCOMM's ability to provide the Service under this Agreement. If Customer considers that the resulting change to the Service or the Agreement has a material adverse effect on the functionality or performance of that Service or prejudices the Customer's rights under this Agreement, Customer may notify GCOMM in writing within 20 Business Days of the change clearly substantiating the existence and nature of the material adverse effect. If GCOMM acting reasonably and in good faith agrees that there is a material adverse effect or



- prejudice caused by the change and fails to correct it within 15 Business Days following receipt of Customer's written notice, Customer may terminate that Service and/or this Agreement with 30 days' written notice to GCOMM without incurring any Cancellation Fee.
- 7.2 From time to time, GCOMM may upgrade the Service Customer receives under the Agreement to make Service improvements or other changes to the manner in which the Service is provided. Customer must cooperate with GCOMM so that these changes can be made. A change may require a temporary outage of the Service.
- 7.3 Customer can request additional services or changes by sending a written request to GCOMM or using the GCOMM Cloud Services Portal, as applicable. Where GCOMM accepts the Customer's request it will issue a new Quote for the new service or the change and the parties may sign a Confirmation of Acceptance. Where a Confirmation of Acceptance has been signed under this clause 7.3, that Confirmation of Acceptance will be incorporated into the Agreement and amend any earlier Confirmations of Acceptance.
- 8. Method of accessing the Service**
- 8.1 The Customer acknowledges that its receipt of the Service is likely to be affected by the method of connecting to GCOMM's cloud servers.
- 8.2 GCOMM will not be responsible for (and expressly disclaims any liability for) any failure or inability of the Customer or its users to access or use the Service, or any degradation or reduction in the performance or responsiveness of the Service, that is caused or contributed to by the Customer's telecommunications providers or any other aspect of the Customer's environment beyond the reasonable control of GCOMM.
- 9. Equipment and Customer Equipment**
- 9.1 GCOMM may need to install Equipment and cabling on the Customer Site.
- 9.2 Customer authorises GCOMM and its Personnel to:
- enter the Customer Site for the purpose of performing the obligations of GCOMM under this Agreement;
  - install, disconnect, maintain, repair and replace any part of such equipment and cabling;
  - connect such equipment and cabling to any equipment in order to enable GCOMM to deliver the Service; and
- enter the Customer Site and take all steps reasonably necessary to fulfil GCOMM's obligations to recover the Equipment on termination of the Service.
- 9.3 If Customer does not own Customer Site, Customer warrants that they have notified the owner of the Customer Site and obtained all necessary permissions and consents to enable GCOMM to deliver the Service and exercise its rights in accordance with this Agreement.
- 9.4 Customer agrees to provide GCOMM or GCOMM's Personnel with safe, sufficient and timely access to the Premises to perform the obligations of GCOMM under this Agreement.
- 9.5 Customer agrees to indemnify GCOMM against any damage, expense, loss or liability, that GCOMM incurs arising out of the use of Equipment by the Customer.
- 9.6 All Equipment remains the property of GCOMM (or its nominee) and must be returned to GCOMM upon the termination of this Agreement.
- 9.7 The Equipment must only be used to access the Service provided under this Agreement at the Customer Site.
- 9.8 Customer authorises GCOMM and GCOMM's Personnel or will ensure authorisation for GCOMM or GCOMM's Personnel to disconnect, install or make amendments to any routers, telephone lines, equipment or cabling at Customer's Premises for GCOMM to provide the Service.
- 9.9 Customer acknowledges that:
- GCOMM is providing the Equipment to Customer for the purposes of performing the Service; and
  - Customer will have no right, title or interest in the Equipment, including any right to deal with the Equipment unless specified otherwise in the Agreement;
  - risk in the Equipment transfers to the Customer from the time that GCOMM provides the Equipment to Customer.
- 9.10 Customer must not, and must not attempt, under any circumstances to sell, transfer, lease or otherwise deal with the Equipment except as provided for in the Agreement.
- 9.11 While the Equipment is on the Customer Site, Customer must take reasonable care to keep the Equipment secure and safe from theft, vandalism and damage.
- 9.12 Customer must ensure that any Customer Equipment used in connection with the Service:



- (a) has all necessary regulatory approvals;
- (b) complies with all applicable regulatory standards; and
- (c) is capable of operating with the Service.

- (f) GCOMM is not responsible for any loss, costs or damages arising or resulting from delays in meeting requested or specified service dates.

9.13 GCOMM may require Customer to immediately cease using and disconnect Customer Equipment from the Service or, if Customer fails to do so, GCOMM may disconnect Customer Equipment from the Service if:

- (a) there are faults with Customer Equipment causing interference with the Service; or
- (b) GCOMM reasonably considers that Customer Equipment may:
  - (i) cause death or personal injury;
  - (ii) cause damage to GCOMM property or the property of a third party; or
  - (iii) materially impair the performance of the Service, or the operation of the GCOMM Network or a Supplier Network.

## 10. Installation of Equipment

- (a) Installation of the Equipment includes the delivery of the Equipment to the Customer Site, configuration of the Equipment in accordance with the Data Collection, actual installation of the Equipment at the Customer Site and testing of the Equipment for functionality.
- (b) [GCOMM will use reasonable commercial efforts to coordinate installation date(s) with the Customer by no later than 30 days from Effective Date.] GCOMM will install the Equipment during Business Hours.
- (c) If the Customer requests installation of Equipment outside of the Normal Installation Window, Customer must provide GCOMM with 3 weeks' prior written notice. GCOMM will coordinate with Customer to determine a mutually acceptable installation date and time.
- (d) Should GCOMM agree to the Customer's request for an installation time outside of the Normal Installation Window, GCOMM will charge for time and materials at the then-applicable hourly rate charged by GCOMM for Service dispatch calls.
- (e) If Customer fails to allow or accept installation of the Equipment when a GCOMM technician arrives as scheduled to install the Service, Customer will be charged the "Customer Not Ready for Service" fee for the aborted service visit.

## 11. Customer requirements

### 11.1 The Customer must:

- (a) provide GCOMM with such information and assistance as reasonably required to enable GCOMM to complete the Data Collection ;
- (b) provide GCOMM and its Personnel with appropriate access to Customer Site and network as required for the Data Collection, Equipment installation, configuration and troubleshooting and to provide the Basic Support Services;
- (c) provide GCOMM with a complete list of its LAN applications;
- (d) cooperate with GCOMM Personnel in scheduling installations and service calls;
- (e) provide a safe and hazard free environment for GCOMM representatives to enter and work at the Customer Site;
- (f) ensure that it has obtained connection to and all necessary permissions, licences, permits or consents from any public or private telephone network to which the Equipment is connected and any necessary permissions, licences or permits from any federal, state or local government or regulatory authorities;
- (g) provide GCOMM with telephone numbers, passwords and any other information reasonably necessary to enable remote access to the Equipment and notify GCOMM of any changes made to such numbers and passwords;
- (h) implement security procedures necessary to limit access to the Equipment;
- (i) promptly communicate any details of any changes made by Customer to its internal systems that would affect the Equipment;
- (j) enable GCOMM to port any Service to GCOMM's preferred Suppliers by signing the Porting Authority and Disclosure Statement set out in Schedule B of this Agreement;
- (k) not use the Service in a manner that breaches GCOMM's Acceptable Use Policy;
- (l) ensure that it will not engage in Unreasonable Use;



- (m) perform all reasonable tests and comply with all reasonable instructions as requested by GCOMM to assist GCOMM where appropriate to perform the Service;
- (n) ensure that only Customer's Authorised Personnel contacts the GCOMM Help Desk;
- (o) take all steps required by good industry practice to ensure that no unauthorised party is allowed access to the Service and Customer's Data or to disrupt the operation of, or prevent access to, the Service, including appropriate username and password management processes; and

11.2 The Customer has read and understood the information and training guides which can be accessed through the links below or on the GCOMM Cloud Services Portal:

[GCOMM Cloud PBX Customer Responsibilities Guide](#)  
[GCOMM Cloud PBX Administration Guide](#)  
[GCOMM Cloud PBX Admin Quick Start Guide](#)  
[gloCOM User Guide](#)

## 12. Customer's Use of the Service

12.1 In using the Service, Customer must comply with:

- (a) all laws;
- (b) all directions by a Regulator;
- (c) the Agreement and Acceptable Use Policy; and
- (d) any reasonable directions by GCOMM.

12.2 Customer must not use or attempt to use the Service:

- (a) to break any law or applicable code of conduct or to infringe another person's rights;
- (b) in any way which damages, interferes with or interrupts the Service or services provided to other GCOMM customers;
- (c) in any way which may damage any property or injure or kill any person;
- (d) to transmit, publish, communicate and/or store material which is defamatory, offensive, abusive, indecent, menacing or unwanted; or
- (e) to wilfully engage in any activities in a manner which exposes GCOMM or a Supplier to liability.

12.3 The parties agree to exchange information and co-operate in relation to:

- (a) the prevention, minimisation and investigation of fraudulent use or misuse of the Service;
- (b) theft of any Equipment; or
- (c) network or telecommunications fraud.

A party is not obliged to exchange information or co-operate if, in its reasonable opinion, the other party does not comply with or does not have sufficient procedures to comply with, privacy laws.

12.4 If Customer has any questions or complaints about the Service, including reporting faults, Customer must only contact GCOMM.

12.5 The Customer is responsible for the acts and omissions of its Personnel. Customer must ensure that any Personnel who use the Service do so in compliance with the Agreement.

## 13. Security

13.1 In providing the Service GCOMM will adhere to good industry practice in relation to data security and malware prevention.

## 14. Intellectual Property

14.1 To the extent necessary for provision of the Service and if provided, GCOMM grants the Customer a limited, non-exclusive, non-transferable, licence to use GCOMM Material for the Term of the Agreement solely for the purpose of using the Service.

14.2 GCOMM Material remains the intellectual property of GCOMM and its licensors and no intellectual property rights have been assigned to the Customer under the Agreement.

14.3 The Customer warrants that the acts of GCOMM (and its Personnel) in accordance with this Agreement will not infringe any third party's Intellectual Property Rights in the Customer's Data.

14.4 The Customer grants GCOMM a non-exclusive, irrevocable, worldwide, royalty-free licence to exercise the Intellectual Property Rights in any Customer Data:

- (a) in connection with GCOMM providing the Service to the Customer; and
- (b) for the purposes of invoicing and billing calculations, gathering usage statistics, analysing storage and growth requirements and performance maintenance and support including upgrades audits, performance running and backups.

The licence granted above includes also the right to sublicense to Suppliers.



14.5 As part of the Service, GCOMM may provide Customer with Service Software in which case GCOMM grants a limited, non-exclusive, non-transferable licence to use the Service Software for the Term of the Agreement for the sole purpose of Customer accessing and using the Service. The Customer must comply with all licence terms and conditions applicable to the Service Software notified to Customer, as amended by GCOMM from time to time.

14.6 Customer must immediately inform GCOMM if it becomes aware of any infringement or suspected infringement of GCOMM's or third party's intellectual property rights.

14.7 GCOMM may use the Customer's name and trade mark on advertising or promotional material for the Service, and may disclose that the Customer is a customer of GCOMM.

## 15. Invoicing

15.1 The Fees will become payable by Customer from the Start Date and GCOMM will invoice Customer the relevant Fees in accordance with the Quote, subject to any changes in the Fees under the Agreement.

15.2 For a modification to an existing Service, GCOMM will invoice Customer for the remainder of the month from the Start Date to the end of the calendar month (less a credit for the remainder of the month for the prior Service) and for the next calendar month in advance.

15.3 GCOMM will invoice Customer for any usage Fees that are based on the actual usage for a calendar month.

## 16. Invoices and Payment

16.1 Unless otherwise agreed, GCOMM may invoice Customer:

- (a) for any installation Fees, after installation;
- (b) for variable Fees, in arrears;
- (c) for recurring or fixed Fees, in advance; and
- (d) otherwise as notified by GCOMM from time to time.

16.2 Subject to clause 19, Customer will pay each invoice by the end of the calendar month following each invoice date. If Customer fails to pay the Fees pursuant to the Agreement, without limiting GCOMM's other rights and remedies, GCOMM may:

- (a) charge interest at a rate of 2% plus the National Australia Bank overdraft indicator base rate or such other comparable rate chosen by GCOMM;
- (b) suspend the Service;
- (c) cancel the Service; or
- (d) terminate the Agreement immediately upon written notice.

16.3 Customer acknowledges that GCOMM will use its reasonable endeavours to include in Customer's invoice all Fees for the Service in the applicable billing period. Customer acknowledges that this may not always occur because GCOMM receives an invoice for a Service that is supplied by another or Supplier. Customer further acknowledges that GCOMM may include these unbilled Fees in any later invoice or invoices.

16.4 GCOMM may provide Customer with an option to pay the Fees for the Service by credit card. If Customer chooses to provide GCOMM with Customers' credit card details for the purposes of paying the Fees, GCOMM may:

- (a) bill all Fees to Customers' credit card including all credit card transaction surcharges;
- (b) disclose Customers' credit card details to, and obtain information from, any financial institution or credit card issuer to verify the credit card details;
- (c) take steps to verify that Customer holds sufficient credit on Customers' credit card to meet the likely Fees; and
- (d) charge any Cancellation Fee payable pursuant to the Agreement.

## 17. Direct Debit

17.1 Customer acknowledges and warrants that:

- (a) the information in the Direct Debit Request Form is correct and the nominated account will accept direct debits; and
- (b) it will notify GCOMM in writing if Customer wishes to change any direct debit payments.

17.2 If a Customer wishes to dispute a debit that has been made from Customer's nominated account, Customer must immediately contact GCOMM with the nature of the dispute. On receipt of such notification GCOMM will use reasonable endeavours to respond within 5 Business Days.

17.3 If GCOMM determines that Customer's nominated account was incorrectly debited, then GCOMM will





provide Customer with details of its findings and make any necessary refunds.

17.4 Customer must ensure that sufficient cleared funds are available in Customer's nominated account on the debit date. If there are insufficient funds and Customer's financial institution dishonours the direct debit payment, then Customer will be liable for any charges and tax relating to the dishonoured payment.

17.5 Customer acknowledges that if the debit date is on a weekend or public holiday in Queensland, then GCOMM will process the payment on the next Business Day.

## 18. GST

18.1 Unless expressly included, the consideration for any supply under, or in connection with, the Agreement does not include GST.

18.2 To the extent that any supply made under, or in connection with, the Agreement is a taxable supply, the recipient of that supply must pay an amount equal to the amount of GST imposed in respect of the supply under the GST Act.

18.3 The supplier must provide to the recipient a GST tax invoice as required by the GST Act.

## 19. Disputed Invoices

19.1 If Customer wishes to dispute any invoice, Customer will within 10 days of the date of the invoice notify GCOMM of the nature of the dispute.

19.2 If GCOMM does not receive notification of the dispute from Customer within a 10 day period, Customer will be deemed to have accepted the Fees by the invoice due date.

19.3 If GCOMM investigates the dispute and does not agree with the Customer, the dispute will be addressed in accordance with clause 29.

## 20. Credit Management

20.1 GCOMM may at any time review Customer's creditworthiness by requesting information from a credit reporting agency. Customer consents to GCOMM providing any Personal Information required by the nominated credit reporting agency.

20.2 Customer agrees that it will cooperate with any creditworthiness review required by GCOMM including providing such information and authorisations required by GCOMM.

## 21. Personal Information

21.1 GCOMM may collect, use and disclose Personal Information about Customer or its Personnel to decide whether to supply the Service and for the purposes of providing the Service).

21.2 GCOMM may collect, use and disclose Personal Information about Customer, its Personnel or the supply of the Service to or from:

- (a) a credit reporting agency;
- (b) a credit provider;
- and
- (c) Suppliers who need access to Customer's Personal Information so as to provide GCOMM with services to allow supply of the Service to Customer.

21.3 Customer acknowledges that GCOMM may be required by law to collect, use or disclose Personal Information about Customer or its Personnel including for reasons relating to law enforcement agencies.

21.4 GCOMM may use, process or transfer Personal Information of Customer or its Personnel:

- (a) in connection with provisioning of the Service;
- (b) to incorporate Personal Information into databases controlled by GCOMM with the administration, provisioning, billing and verification of Customer's or its Personnel's identity and solvency, maintenance support and product development, fraud detection and prevention, sales revenue and customer analysis and reporting and market and customer use analysis; and
- (c) to communicate to Customer about products and services of GCOMM or its partners by means of voice, letter, facsimile; or email, from time to time.

21.5 In some instances, transfer of Personal Information will involve transfer of this information to a country outside of the country where Customer's Personal Information is stored and Customer consents to this transfer, storage and use of information.

21.6 Customer acknowledges the GCOMM Privacy Policy is amended from time to time and is available at <https://gcomm.com.au/legal-terms-of-use/> and is applicable to the Service provided under the Agreement.

21.7 If there is any conflict between this clause and GCOMM's Privacy Policy, the Privacy Policy will



prevail.

of their Personal Information to GCOMM and the Suppliers.

## 22. Customer warranties

22.1 **Accuracy and reliance warranties.** The Customer represents and warrants to GCOMM that:

- (a) all information (including Personal Information) provided by the Customer or on the Customer's behalf to GCOMM is accurate and is not, whether by omission of information or otherwise, misleading;
- (b) the Customer has not withheld from GCOMM any document, information or other fact material to the decision of GCOMM to enter into the Agreement;
- (c) the Customer did not rely upon any representation made to the Customer by GCOMM or any Related Body Corporate of the GCOMM (if any) prior to entry into the Agreement;
- (d) the Customer understands and acknowledges that it is responsible for storing and archiving data required to be kept for legal or taxation purposes;
- (e) all information and Customer's Data transmitted by the Customer on the GCOMM servers or utilising any of the GCOMM services is legal and permissible according to the laws of the State of Queensland and the laws of Australia; and
- (f) in relation to any material Customer installs, creates, modifies, stores, copies or transmits using the Service, Customer has all necessary legal rights and authority to so install, create, modify, store, copy or transmit the material.

22.2 **Privacy warranties.** The Customer represents and warrants to GCOMM that:

- (a) the Customer has complied with its obligations under the Privacy Act, including the Australian Privacy Principles, in relation to all information (including all Personal Information and Customer's Data) provided to GCOMM in connection with the Service;
- (b) the Customer understands and acknowledges that it is liable for ensuring the accuracy of any Personal Information provided to the GCOMM or stored on the GCOMM servers; and
- (c) the Customer has obtained consent from any third party whose Personal Information is included in Customer's Data to the disclosure

22.3 **Indemnity.** The Customer is liable for, and indemnifies GCOMM from and against, all loss or damage, costs (including legal costs) and expenses incurred or suffered by GCOMM however caused in connection with:

- (a) any Customer's Data supplied to, stored or processed by GCOMM; or
- (b) the Customer's failure to comply with its obligations under the Privacy Act and the Australian Privacy Principles.

22.4 **Documentation.** GCOMM makes no representation and gives no warranty that the Documentation is complete, accurate or sufficient to explain the operation of the Service.

## 23. Confidentiality

23.1 During the Term of the Agreement and after its termination, the parties will:

- (a) use their best endeavours to keep all Confidential Information confidential and accordingly not disclose any Confidential Information to any other person other than its Personnel on a need to know basis;
- (b) not use any Confidential Information for any purpose other than the performance of its obligations under the Agreement; and
- (c) be responsible for the activities of their respective Personnel, or subsidiaries and undertake that they will be bound to the same extent of confidentiality as this clause 23.1.

23.2 The provisions of clause 23.1 will not apply to:

- (a) any information in the public domain otherwise than by breach of the Agreement;
- (b) information that was known by a party on a non-confidential basis prior to disclosure of it by the disclosing party;
- (c) information obtained without restriction from a third party; and
- (d) information required to be disclosed by a court of competent jurisdiction, governmental body or applicable regulatory authority.

23.3 Customer acknowledges that the contents of the Agreement and any pricing or product information provided by GCOMM (including in any Quote or proposal), constitutes commercially sensitive and Confidential Information, except to the extent to that



it is published on a publicly available portion of GCOMM's website.

of the Agreement that are not expressly set out in this Agreement, are excluded.

## 24. GCOMM's Right to Suspend or Cancel a Service

24.1 GCOMM may, without liability, immediately cancel or suspend a Service if:

- (a) the Customer has failed to pay any money owing under the Agreement;
- (b) there is a force majeure event as defined in clause 31.7;
- (c) it is necessary to allow GCOMM or a Contractor to repair, maintain or service any part of the Service;
- (d) Customer breaches clause 11 or clause 12;
- (e) GCOMM reasonably suspects fraud by Customer or any other person in connection with the Service;
- (f) GCOMM is required to do so to comply with law or a Regulator or a direction by a competent authority;
- (g) GCOMM becomes aware that the Customer is not eligible to receive the Service in accordance with the Agreement;
- (h) where the relevant Service is replaced by a newer technology which allows for increased functionality or the relevant Service has reached the end of its natural life cycle;
- (i) Customer is Insolvent; or
- (j) GCOMM has reasonable grounds to believe that Customer will not or is unable to make any payment which is due or is to fall due to GCOMM; or
- (k) GCOMM is otherwise entitled to do so under the Agreement.

24.2 Where GCOMM suspends, or cancel Customer's receipt of the Service under these Terms and Conditions, GCOMM will provide the Customer with the notice as is reasonably possible in the circumstances prior to cancelling or suspending that Service.

## 25. Limitation of Liability

25.1 **Implied Terms.** To the extent permitted by law but subject to clause 25.4 all warranties, terms and conditions whether express, implied, statutory or otherwise, relating in any way to the subject matter

25.2 **Limitation of Liability.** To the extent permitted by law, GCOMM's liability for all damages arising under, or related to, the Agreement (regardless of the type of damages, and whether for breach of contract, breach of warranty, tort or otherwise) will be limited to the amount of fees received by GCOMM for the Service to which the damages relate in the previous 12 months.

25.3 **Exclusion of Loss.** Notwithstanding any other provision of the Agreement and to the extent permitted by law, neither party will be liable to the other party for Consequential Loss.

25.4 **Australian Consumer Law.** Under the Australian Consumer Law included in the *Competition and Consumer Act 2010* (Cth) ("**ACL**"), consumers have certain rights which cannot be excluded, including guarantees as to the fitness for purpose of goods or services. Nothing in the Agreement will be read or applied so as to exclude, restrict or modify or have the effect of excluding, restricting or modifying any such condition, warranty, guarantee, right which by law cannot be excluded, restricted or modified. The Agreement must be read subject to these statutory provisions. Subject to any consumer rights under the ACL and to the extent permitted by law, GCOMM limits its liability in respect of any claim under those provisions, at the option of GCOMM, to supplying the services again; or paying the cost of having the services supplied again

25.5 **Acknowledgements.** Without limiting the exclusions or limitations of liability in this clause 25, Customer acknowledges that:

- (a) GCOMM makes no representation and gives no warranty in relation to the suitability or performance of any Contractor; and
- (b) GCOMM does not guarantee a timeframe for restoration of the Service should it fail.

25.6 **Customer Indemnity.** Notwithstanding any other provision of the Agreement, Customer agrees to indemnify GCOMM (including GCOMM's Personnel) against any loss, damage, liability, costs, proceedings, charges and expenses (including all reasonable legal costs) incurred by GCOMM arising from a third party claim against GCOMM due to the Customer, its Related Bodies Corporate or its Personnel, in connection with the Service or the Agreement in respect of any loss of life, personal injury or disability, loss of or damage to tangible property.



## 26. Termination

26.1 A party may by written notice to the other party terminate the Agreement immediately if:

- (a) the other party is Insolvent;
- (b) that party has suspended or has a right to suspend the Agreement under clause 24;
- (c) the other party has breached a material term of the Agreement and the breach is not capable of being remedied; or
- (d) the other party has breached a material term of the Agreement (including but not limited to GCOMM not being able to provide or maintain any Service required by the Agreement), the breach is capable of remedy and the other party has failed to remedy the breach within 10 Business Days of being notified of the breach.

## 27. Consequences of Termination

27.1 On termination of the Agreement for any reason all Fees and other amounts, including any Cancellation Fees, owing by Customer for the Service will become immediately due and payable. Cancellation Fees will be payable by Customer where termination is effective during the Initial Term or the Renewal Term except where termination is by Customer pursuant to clauses 7.1, or 26.1.

27.2 The Customer must deliver to GCOMM any of the GCOMM's Confidential Information or other property in the Customer's care, custody or control within 10 Business Days of receiving notice of the termination.

27.3 **Resupply.** The Customer must not re-sell, re-supply, sublicense, lease or otherwise make the Service available to any third party and must only acquire and use the Service for its own internal business purposes.

## 28. Complaints

28.1 GCOMM aims to resolve its customers' issues or queries quickly and professionally. Any complaints from our customers are prioritised and acted upon according to Australian Communications Industry Forum and Telecommunications Industry Ombudsman guidelines.

28.2 Complaints should be made in writing and addressed to:

GCOMM Pty Ltd  
PO BOX 609  
Surfer's Paradise Qld 4217

28.3 Should Customer be dissatisfied with GCOMM's response, Customer may be entitled to raise certain matters directly with the Telecommunications Industry Ombudsman or with either the Department of Fair Trading or the Department of Consumer Affairs in Customer's state or territory.

## 29. Dispute Resolution

29.1 **Dispute.** A party may not commence any court or arbitration proceedings relating to a Dispute unless it complies with this clause 29 except where the party seeks urgent injunctive, declaratory or other interlocutory relief or where the Dispute relates to Customer's failure to pay Fees or other payments.

29.2 **Notice of Dispute.** If a Dispute arises in connection with the Agreement, a party to the Dispute must give to the other party to the Dispute notice specifying the Dispute and requiring its resolution under this clause 29.2 (**Notice of Dispute**).

29.3 **Resolution.** The chief executive officers (or their representatives) of each party must confer within 3 Business Days after the Notice of Dispute is received to try to resolve the Dispute.

## 29.4 Arbitration

- (a) If the Dispute is not resolved within 10 Business Days after the Notice of Dispute is given to the other party ("**First Period**"), either party may require the Dispute to be submitted to arbitration. The arbitration must be conducted in Queensland by a single arbitrator.
- (b) If the parties have not agreed upon the arbitrator within 5 Business Days after the First Period, the arbitrator is the person appointed by the President of Resolution Institute ("**President**") or the President's nominee, acting on the request of any party to the Dispute.
- (c) After accepting the appointment and during the arbitration the arbitrator may:
  - (i) require the parties to lodge security or further security towards the arbitrator's fees and expenses;
  - (ii) apply any security towards those fees and expenses; and
  - (iii) act as an expert,but the arbitrator may not direct a party to the Dispute to provide security for the costs of the arbitration to be incurred by any other party.



- (d) The Dispute to be arbitrated will be finally resolved by arbitration in accordance with the *Commercial Arbitration Act 2013* (Qld) and the IAMA Arbitration Rules.
- (e) The arbitration, including any awards made by the tribunal, will be confidential (but this obligation of confidence does not prevent a party from bringing court proceedings).
- (f) Each party will bear its own costs of the arbitration. The parties will share the arbitrator's costs equally, unless the arbitrator directs otherwise.
- (g) The parties agree that an appeal may be made to the Court on a question of law (but any factual findings will be final and binding on the parties).

**29.5 Urgent changes.** Where a change to the Agreement is required by law or is necessary in GCOMM's opinion to prevent fraud or for technical reasons and Customer would be affected by the change GCOMM shall proceed with the change but will try to give Customer as much notice as possible of the change.

### 30. Changes requiring notice

30.1 In addition to its rights to cease to supply or modify the Service or provide substitute services pursuant to clauses 7 and 24 and without prejudice to its rights under clause 31, GCOMM may make additions or amendments to the terms of the Agreement as follows:

- (a) GCOMM may amend the Fees by giving Customer 20 Business Days advance notice in case of increase of charges by Suppliers in relation to the supply of Service
- (b) If GCOMM reasonably believes that a change in the terms of the Agreement is likely to benefit Customer or be neutral to Customer, GCOMM may make the change immediately and is not required to notify Customer beforehand;
- (c) GCOMM may make changes to the Agreement in order to implement changes in the law, whether in relation to taxation or otherwise, since the Effective Date and shall to the extent practical give Customer 20 Business Days' notice of such changes; and
- (d) GCOMM may make such other changes to the Agreement that do not in GCOMM's opinion have a material adverse effect on the rights of Customer by giving Customer 20 Business Days advanced written notice

thereof.

### 31. General

**31.1 Notices.** Notices given under the Agreement:

- (a) must be in writing addressed to the intended recipient at the address last notified by the intended recipient to the sender;
- (b) must be signed by a person duly authorised by the sender; and
- (c) will be taken to be served when delivered, received or left at the intended recipient's address, but if delivery or receipt occurs on a day on which business is not generally carried on in the place to which the notice is sent, or later than 5pm on that date at that place, it will be taken to have been served at the commencement of business on the next day on which business is generally carried on in that place.

**31.2 Entire Agreement.** The Agreement constitutes the entire agreement between the parties with respect to their subject matter and supersedes all prior and all contemporaneous agreements, understandings, marketing materials and communications, whether written or oral. Any contrary or additional terms, conditions or representations attached to or made part of any purchase order or similar document, or contained in presentations or slideshows, emails or letters, or otherwise communicated between the parties, will be invalid and non-binding on the parties.

**31.3 Nature of engagement.** GCOMM is engaged by Customer as an independent contractor. Nothing in the Agreement creates a relationship between the parties of employer and employee, principal and agent, partnership or joint venture.

**31.4 Amendment.** This document may be amended only by another document signed by each of the parties.

**31.5 Indemnities.** Each indemnity in the Agreement is a continuing obligation, separate and independent from the other obligations of the parties and survives termination of the Agreement for whatever reason. It is not necessary for a party to incur expense or make payment before enforcing a right of indemnity conferred by the Agreement

**31.6 Assignment.** Except to a Related Body Corporate (as defined in the Corporations Act) of GCOMM, neither party may assign or otherwise transfer its rights under the Agreement without the prior written



consent of the other party, which consent may not be unreasonably withheld.

**31.7 Force Majeure.** Neither party will be liable for any failure or delay in performing an obligation under the Agreement (excluding payments) that is due to causes beyond its reasonable control, such as natural catastrophes, government acts or omissions, laws or regulations, labour strikes or difficulties, transportation stoppages or slowdowns or the inability to procure parts or materials. These causes will not excuse Customer from paying accrued amounts due to GCOMM through any available lawful means acceptable to GCOMM. If any of these causes continue to prevent or delay performance for more than 90 days, the party not experiencing the delay may terminate the Agreement, effective immediately, upon notice to the other party.

**31.8 Severance.** Any provision of the Agreement which is prohibited or unenforceable in any jurisdiction will be ineffective in that jurisdiction to the extent of the prohibition or unenforceability, but will not invalidate the remaining provisions of the Agreement nor affect the validity or enforceability of that provision in any other jurisdiction.

**31.9 No Waiver.** No failure to exercise and no delay in exercising any right, power or remedy under the

Agreement will operate as a waiver, nor will any single or partial exercise of any right, power or remedy preclude any other or further exercise of that right, power or remedy.

**31.10 Governing Law.** The Agreement is governed by the laws of Queensland. The parties submit to the non-exclusive jurisdiction of courts of Queensland and courts entitled to hear appeals from those courts.

**31.11 Counterparts.** To facilitate execution of the Agreement the Confirmation of Acceptance may be executed in two identical counterparts and the signature of each party will appear on each counterpart.

**31.12 Signing.** The parties may also execute the Agreement using the EchoSign contract execution facility to digitally sign the Confirmation of Acceptance and each party warrants and represents that the online execution of the Agreement through EchoSign is a valid signature of a duly authorised official who has the power to bind that party.

## Schedule A - Service Levels

### 1. Definitions

In this Schedule A:

**Critical Failure** means events in which one or more of the Customer's handsets experience Downtime.

**Downtime** means the inability to initiate or receive voice calls for over thirty (30) minutes due to infrastructure and/or network controlled by GCOMM as reported by Customer.

**Fault** shall mean a material defect, fault or impairment in a service, which causes an interruption in the provision of the service.

**Planned Maintenance** is a period of time during which performance of the Service may be suspended or limited in order to implement upgrades, repairs and other changes and occurs when planners have set aside a particular time period to shut down or restrict operations.

**Response Target** means the time by which GCOMM will first respond to a Customer's support services request but does not mean the time by which an incident will be resolved.

**Service Availability** means the functioning of all Cloud PBX Services including telephony and conferencing services that have a direct impact on new call attempts and call completions.

**Restoration Target** is the amount of time elapsed from Customer reporting a Fault to GCOMM or from the issuance of an alert by GCOMM until corrective action is taken to restore the Service, excluding Planned Maintenance and any emergency maintenance notified to Customer in advance by either GCOMM or a Supplier and specified in the notice as maintenance that is required for the GCOMM Network or for a Supplier Network.

**Workaround** means an alternative method of using the Service which avoids the incident or minimizes its effect, which does not result in substantial extra inconvenience or expense for Customer and does not result in any important reduction in the functionality of the GCOMM network.

### 2. GCOMM's Service Levels

Unless a Service Level exclusion applies, GCOMM aims to meet the Service Levels for the Service. Customer acknowledges that Service Levels are targets only and GCOMM will not be responsible for failing to meet them.

Table 1 below set out the Service Levels that are available for each of the Services.

**Table 1 – Description of Service Levels for Services**

Service Levels	Service Levels for Cloud PBX Service
Service Support Coverage Hours	24/7 365 Days a year
Service Availability	99.95%

### 3. Service Level Rebates

If GCOMM fails to meet the Service Availability Service Level set out in Table 1 for a Cloud PBX Service, then Service Level rebates may apply.

Customer may apply for a rebate in accordance with this clause if;

- (a) Service is unavailable due to a problem caused by GCOMM and outside any Planned Maintenance; and
- (b) the total unavailability of Service is greater than allowed under the Service Availability Service Level which corresponds to Service,  
then Customer may apply for a rebate in accordance with Table 2 – Rebate %.

**Table 2 – Rebate %**

Service Availability	Service Level Rebate % of Monthly Service Fee for Cloud PBX Service
>99.95 %	0 %
99.0% to 99.95%	5%
98.0% to 98.9%	7.5%
< 98.0 %	10.0%

### 4. Service Level Exclusions

GCOMM is not responsible for a failure to meet a Service Level and no Service Level Rebates are applicable where:

- (a) Interruptions or downtime of connectivity of Customer's PBX (IP Phones, in the case of Hosted PBX systems) to the Internet;
- (b) Power failures at the Customer Site;
- (c) Hardware and/or software failures at the Customer Site caused the failure, whether or not owned or managed by GCOMM;
- (d) Misconfiguration of the Service, mismanagement of the Service or other human errors on the Customer's part and/or third party not representing GCOMM;
- (e) Interruptions or downtime of ability to call outside of Australia;
- (f) In the case of diverted (forwarded) SIP Trunks, the downtime of the receiving network;
- (g) Bad quality calls (such as jitter, network latency, etc.);
- (h) Failure on the Customer's part to inform GCOMM of critical network changes on the Customer's Network, including but not limited to failure to advise GCOMM of IP address changes (if IP authentication is used);
- (i) Failure on the Customer's part to provide GCOMM with necessary information during the fault restoration and resolution periods;
- (j) Planned Maintenance or Emergency Maintenance for Planned Works performed by GCOMM or GCOMM's partners. Customer will proactively be informed by GCOMM's NOC (via email) about planned network activities that could result in a service decline;



- (k) Circumstances beyond GCOMM's reasonable control, including, without limitation, Force Majeure events, virus attacks or hackers, failure of third party software (including, without limitation, ecommerce software, payment gateways, chat, statistics or free scripts);
- (l) Customer's breach of an obligation under the Agreement;
- (m) Faults resulting from interference caused by Customer or any unauthorized use of the Service using Customer's security credentials such as user names and passwords related to the Service or by Customer's invitation;
- (n) Customer's negligence or the negligence of any person accessing the Services using Customer's security credentials such as user names and passwords related to the Service or by Customer's invitation; or
- (o) Faults due to willful damage to the Service by Customer or any person accessing the Service using Customer's security credentials such as user names and passwords related to the Service or by Customer's invitation.

## 5. Scope of Support Services

GCOMM will endeavor to use commercially reasonable means to resolve and prevent issues which result in the Customer being unable to make or receive calls on the Service.

GCOMM will make customer support available to the Customer via its call center, email and customer portal, which will be available to resolve technical and systems operation issues that are not caused by any configuration changes the Customer may have applied himself. Customer support services shall not include, and GCOMM shall have no obligation hereunder to perform any of the following: (i) on-site support; (ii) installation of any software or hardware; (iii) dedicated representative support; or (iv) network or third-party equipment support.

GCOMM will make customer assistance available to the Customer via its call center, email and customer portal, which will be available to answer initial inquiries regarding the implementation or use of the service, including technical questions about the Service that require an explanation of a feature, its function and error message, and changes of features that are caused by any configuration changes the Customer may have applied himself, as well as to configure and troubleshoot all Cloud PBX system features offered as part of service plans: Call Hold, Call Transfer, Call Park and Pick-up, Call Forwarding, Voicemail, Do Not Disturb, Last Caller, PBX Management Portal, System Dashboard, Call Records, Extension Monitoring, Direct-In-Dial Numbers (DID), Caller ID Presentation, Directory/BLF List, Conference Bridges, Monitoring Conferences, Music on Hold (Default Music), Music on Hold (Customizable Music), User and System Speed Dial, Extension Dialing, only modifications of Ring Groups, Group Hunt, Call Screening, Call Monitoring, Operation Times, Follow Me, Call Filters and Blocking, Speakerphone Paging, Automatic Call Recording, Instant Call Recording, Listen to Recordings, Delete Recordings, Remote Access, Voicemail to Email, only modifications of IVR (Auto-Attendant), E-Fax (Fax to Email). **Hours of assistance are limited per service plan and apply on a monthly basis (hereinafter referred to as "Assistance").**

**Please be informed that the Assistance does not include reconfiguration of the IVR (Auto-Attendant) and Ring Groups, on-site support, headphone configuration and user training.**

Charges for additional assistance which exceed the service plan predefined limits will be charged at GCOMM's standard rates as per the [GCOMM GLOBAL RATES SCHEDULE](#)

## 6. Support Availability for Critical Failure

GCOMM will, within reason, provide 24x7x365 support for all Critical Failures of the Service that are not due to a Force Majeure event or Planned Maintenance. To ensure receipt of a Critical Failure notice, Critical Failures MUST be communicated to GCOMM by phone to the GCOMM Support Team and by sending an email to [Pbxsupport@gcomm.com.au](mailto:Pbxsupport@gcomm.com.au). The email MUST include the word Urgent in the subject line. It will be considered an open issue when a case number is received by the Customer

from the GCOMM Support Team. From the point of receiving an open case number, measurement of the Service Levels for that Critical Failure under this Schedule will commence. In addition, it is recommended that:

- (a) Before reporting issues, the Customer is required to assign qualified personnel with appropriate knowledge of the PBX implementation to serve as a contact person for GCOMM throughout the handling of the issue.
- (b) Before reporting issues, the Customer must use its best efforts to mitigate effects of the issue, troubleshoot the problem, and rule out any possibility of configurational or operational problems on their side, especially WAN link.
- (c) When reporting an issue, the Customer must provide all data reasonably required by the GCOMM Support Team to assess and reproduce the issue to GCOMM engineers (e.g. call IDs, CDR IDs, loglines, subscriber UUIs, etc.).
- (d) When reporting a Critical Failure, the Customer must use the appropriate access channel as described above.

Failing any of the above requirements may result in the incident not being handled properly and/or within the response times stated below.

## 7. Support and Assistance Availability for Other Requests

For issues other than Critical Failures, GCOMM will provide 24x7x365 support and assistance via a phone call to the GCOMM Support Team or a request may be submitted to GCOMM via an email [pbxsupport@gcomm.com.au](mailto:pbxsupport@gcomm.com.au) or via GCOMM portal. A response will be provided within 24 hours. All support and assistance requests will be provided with a case number and severity level for tracking and communication purposes. Within what is commercially reasonable, GCOMM endeavors to respond, update, and resolve cases as outlined in Section 10 of this Schedule.

Contact support	
Telephone	1300 221 115 and 0755 644 407
Email	<a href="mailto:pbxsupport@gcomm.com.au">pbxsupport@gcomm.com.au</a>
Case/Chat	<a href="http://portal.gcomm.com.au">portal.gcomm.com.au</a>

## 8. Support Obligations for customers with non-GCOMM WAN service

All GCOMM devices require a valid broadband Internet connection to make and receive calls. The performance of the Service is dependent on the performance of the broadband Internet connection between the Customer User facility and the GCOMM data center(s). The physical connection can vary from DSL to Fiber and is critical to this deployment, providing voice and data traffic priority. Solution performance quality can be affected if the Customer operating environment is impacted by hardware failure, feature loss or incompatibility. In addition, Service can be impacted if the Customer's Internet service provider delivers insufficient, poor-quality or otherwise impaired bandwidth. If any of these conditions occur, the following issues may result:

- Packet Loss - Data sent from the Customer network is lost in transit to the GCOMM data center. Packet Loss should not exceed 1% on any call. Packet Loss greater than 1% could result in low quality audio or dropped calls.

- Latency - The time between a network request and response. Latency should be less than 100ms from the device to the data center. Latency greater than 150ms will result in “choppy calls”.
- Jitter - The amplitude and frequency of the Customer’s network latency. Jitter occurs when latency exceeds or spikes regularly beyond 20ms in either direction and results in low-quality audio.

Troubleshooting the Customer’s Internet or their service provider’s network is beyond the scope of the GCOMM support obligation for the PBX service. Third party ISP services are excluded from the measure of GCOMM Cloud PBX SLA as GCOMM has no control over their performance and/or service specifications. GCOMM does not support off-net phones or networks and cannot guarantee the quality of service received. GCOMM can engage professional services for complex troubleshooting or provide additional documentation to the Customer’s network IT professional.

If, however, the Customer’s Internet service provider is GCOMM, the performance of the broadband Internet connection is covered by *GCOMM ISA and SLA*.

## 9. Fault Response and Restoration

The following table defines the severity levels used by GCOMM, acting reasonably, to determine the priority of a fault or problem reported by Customer.

**Table 3 – Fault Severity**

Severity Level (Priority)	Fault Severity Descriptions
1. High	The problem is affecting multiple customers or business critical services such as billing. It is defined as a service affecting problem effectively disabling the platform to provide business critical functionality due to an internal software directly on the platform.
2. Medium	The problem is affecting multiple customers in a non-critical way (e.g. degradation of voice quality or periodic fax transmission failures) or important functions such as provisioning or redundancy without direct impact on existing services.
3. Low	The problem is affecting single customer. The customer has requested configuration or planning assistance to optimize performance of the Service or any other VoIP system in Customer’s network.

## 10. Response Targets and Restoration Targets

The Response Target does not mean the time by which an incident will be resolved. Once the initial request for support is received, GCOMM may ask questions seeking to clarify the incident or gather information on why the incident occurred and GCOMM may be unable to start resolving the incident before the additional requested information is provided by Customer.

Upon reporting the incident, Customer shall provide GCOMM with a complete and concise description of the incident, including all pertinent details and relevant hardware and software information. If Customer cannot provide information or data that reproduces the incident, GCOMM may be unable to solve the incident, but GCOMM will be available to work with Customer and use reasonable efforts to assist in the development of a test case that may be able to reproduce the incident.

In the course of analyzing an incident, GCOMM may identify a possible Workaround. In the case of a Workaround, Customer will implement such Workaround and GCOMM may, at its sole option, modify the priority or the initial time limit accordingly.

GCOMM will use reasonable endeavors to comply with the Response and Restoration Targets set out in the following Table 4.

**Table 4 – Response and Restoration Targets**

Priority	Response target	Action Plan	Work Around	Restoration Target	Status Update
High	<30 minutes	<2 hours	4 hours	<3 business days	Each hour, unless a longer duration is mutually agreed to
Medium	< 2 hours	<4 hours	9 hours	<5 business days	Every 3 Business Hours, unless a longer duration is agreed by the parties
Low	<1 Business Day	<1 Business Day	Not applicable	<7 days, may depend on training & translating	Every 48 Business Hours, unless a longer period is agreed by the parties

## Schedule B

### Customer Authority to Port Telephone Number to GCOMM PTY LTD

I authorise for the telephone number(s) listed in the Quote to be ported to GCOMM.

I acknowledge that I am authorised to request the porting of the telephone number(s) listed in the Quote.

I acknowledge that I have been advised that:

- by porting the telephone number(s) listed in the Quote, the service associated with that telephone number is disconnected from the existing service provider's network and may result in finalisation of the account for that service;
- by porting the telephone number(s) listed in the Quote, any DSL/Spectrum Sharing service associated with that telephone number is disconnected and may result in finalisation of the DSL Spectrum Sharing account for that service; and
- although I have the right to port the telephone number(s), there may be costs and obligations associated with the port which may include early termination fees and porting fees.

#### Responsibilities of Customer and GCOMM:

- You must not deactivate your existing service when porting. Telephone numbers can only be ported while active.
- You can only withdraw your authority to port this telephone number before the Electronic Cutover Advice is sent to your current Service Provider, which will be on or after the preferred cutover date specified in this form.
- GCOMM provides no guarantee that it can port your telephone number from your current Service Provider. Your current Service Provider may reject this port request if the information you provide is incorrect or does not match the data held by them. In this case you authorise GCOMM to correct the information and resubmit the request to port your telephone number or dispute the rejection by your current Service Provider. A porting request may also be rejected for other reasons as stated in the LNP Industry Code.
- GCOMM provides no guarantee that the telephone number will be ported within any specified timeframe. Porting Hours of Operation are 8am to 5pm AEST/AEDST Monday to Friday, excluding National Public Holidays. Cutover can only be initiated at least 2 business days after the porting Notification Advice is sent by GCOMM to your current Service Provider. If a port request is rejected and needs to be resubmitted, cutover cannot take place for at least another 2 business days after the request is resubmitted.
- In the event of a port, withdrawal or reversal, GCOMM is not responsible for any period of outage.
- You may have outstanding contractual obligations and costs owed to your current Service Provider. GCOMM is not liable for any such costs.
- Only your telephone number will be transferred to GCOMM. This may result in the loss of any Value Added Services that are associated with the service provided by your existing Service Provider (eg Voicemail).
- If you wish to port your telephone number from GCOMM to another Service Provider, then you must contact the other Provider.
- GCOMM reserves the right to charge a fee for porting your telephone number to or from GCOMM.
- Local Number Portability (LNP) does not guarantee you can keep your telephone number if you move to a different geographic location.