

# HotAir Conferencing Pty Ltd

## Terms & Conditions

### Definitions

In these terms and conditions, these words shall mean:

"Agreement" - the record of what You and We have agreed including these terms and conditions and the Price List;

"Charges" - any sums owed by You to Us under this Agreement;

"Consequential Loss" - pure economic loss, loss of profit, loss of business, contracts, goodwill and like loss, whether direct or indirect;

"Network" - any telecommunications network which We may use in order to provide You with the Service;

"Price List" - Our list of charges applicable from time to time and which is available on request;

"Service" - the services which We agree to provide You under this Agreement and which are described in Our service literature as amended from time to time;

"We" "Us" "Our" - HotAir Conferencing Pty Ltd, PO Box 307, Sandringham, Victoria 3191. ABN: 32 115 824 612

"You" "Your" - the person, firm or company who We have accepted as a registered user of the Service and any other person who We believe is acting with its authority;

"Account" shall mean the overall service including but not limited to telephone numbers, security codes and log ins.

### Provision of the service

In order to become a registered user of the Service, potential customers are required to complete our registration form. Once We have verified the information supplied on the form, We will decide, at Our sole discretion, whether to accept the registration and will inform the potential customer of Our decision.

We agree to provide You with the Service on the terms and conditions of this Agreement which sets out the entire contract between You and Us.

### Use of the service

You are responsible for maintaining the confidentiality of Your "Account" and for restricting access to Your Account. You agree to accept responsibility and liability for all activities that occur under Your Account whether lawful or unlawful. You are also solely responsible for all uses of Your Account, whether or not actually or expressly authorised by You.

We do not sell products or services for children. If you are under 18, You may use Our Services only with involvement of a parent or guardian. We reserve the right to refuse service, terminate accounts, remove or edit content, or cancel orders at Our sole discretion.

We reserve the right to reclaim on demand security codes deemed inactive 6 months after issue. In order to ensure that We are able to provide high quality services that are responsive to Your needs, You agree to allow Our employees to access Your Account and records on a case-by-case basis to investigate complaints. We will not disclose the existence or occurrence of such an investigation unless required by law.

You agree to indemnify Us against all costs (including the costs of enforcement) expenses, liabilities (including any tax liability), injuries, losses, damages claims, demands or legal costs (on a full indemnity basis) and judgements which We suffer or incur from or in any way connected with Your use of the Service in breach of this Agreement or Your misuse of the Service.

You acknowledge that We may co-operate with the police and any other relevant authorities in connection with any misuse or suspected misuse of the Service or other telecommunications services and that as a result, where this is reasonably necessary, We may divulge Your name, address and account information to such third parties.

### Payment

We will send You a monthly invoice for Your use of the conference call Services.

Unless We otherwise agree in writing, We may adjust Our fees at any time, but We will attempt to provide You with some advanced notice in writing. International rates can change without notice. Any features or upgrades to Our Services will be provided to You on terms and prices generally available to the public or as otherwise agreed by Us in writing.

You agree to pay Us all Charges due within 15 days of the date of Our invoice. Time shall be of the essence in respect of payment of Charges due. Each time Your payment is late, cancelled or dishonoured without a valid reason, We will charge You the prevailing charge (excluding GST) for Our administration costs.

If you default in payment of any invoice when due, You shall indemnify Us from and against all costs and disbursements incurred by Us in pursuing the debt including legal costs on a solicitor and owned client basis and Our collection agencies costs.

If You fail to pay any Charges by the due date without valid reason

We may charge You interest on overdue invoices which shall accrue from the date when payment becomes due daily until payment at a rate of 2.5% per calendar month and such interest shall compound monthly at such a rate after as well as before any judgement.

You agree to tell Us promptly of any change in Your name, address, email address or bank details.

Any Charges payable by You under this Agreement shall be paid in full without any deduction or set-off whatsoever.

All charges are exclusive of GST for which You will be additionally liable.

Details of Our charges are shown on the Price List which may be found at [www.HotAirConferencing.com.au](http://www.HotAirConferencing.com.au)

### Non payment

If You do not pay the entire invoice by the due date We reserve the right to cancel or suspend Your service.

We will restore full use of the Service when You pay all Charges including an amount of the greater of \$50.00 or 10% of the amount overdue (up to a maximum of \$200.00) which shall be levied for administration fees which sum shall become immediately due and payable.

At any time, We may require a deposit or other form of advance payment prior to providing or continuing to provide Service based on Our evaluation of Your credit.

### Communications and content

You are responsible for the content of the messages You communicate when using Our Services as well as the consequences of those messages. You agree that You will not use Our Services to engage in activities that are illegal, obscene, threatening, defamatory, invade privacy, infringe intellectual property rights, or otherwise injure third parties or are objectionable.

You may not use a false e-mail address, impersonate any person or entity, or otherwise mislead Us as to Your identity.

### Limitation Of liability

Unless We otherwise agree in writing, this site and the services are provided on an "as is" and "as available" basis to the fullest extent permitted by law, all representations and warranties whether express or implied are excluded and do not apply to the provision by Us of services to You. Without reducing the generality of this exclusion We do not represent or warrant that the services will be error free, secure, virus free or without interruption.

Neither of Us will be liable to the other for any consequential, incidental, indirect, special, or exemplary damages of any kind, including without limitation any loss of use, loss of business, or loss of profit or revenue, arising out of or in connection with services provided by US (however arising, including negligence), even if We are aware of the possibility of such damages. Our total cumulative liability in connection with the services rendered, whether in contract or tort or otherwise, will not exceed any amounts actually realised by Us (less any payments to You) during the twelve (12) month period immediately preceding any such liability.

### Indemnification

You agree to indemnify, defend and hold harmless Us, Our affiliates, officers, directors, employees, consultants and agents from any and all third party claims, liability, damages and/or costs (including, but not limited to, legal fees) arising from Your use of Our Services, Your violation of the Terms of Use or Your infringement, or infringement by any other user of Your account, of any intellectual property or other right of any person or entity.

The Terms of Use will inure to the benefit of Our successors, assigns and licensees

### Suspension

We can suspend provision of the conference call Service immediately if any of the following happens:

We are entitled to end this Agreement for any reason; We have reasonable grounds to believe that any Charges payable under this Agreement by You may not be paid; You do not pay Us any money which is due to Us; We have reasonable grounds to suspect You are using the Service fraudulently.

While the Service is suspended You will still have to pay all Charges due and any other reasonable costs and expenses which We may incur as a result of such suspension and any subsequent reconnection of Service.

### Disputes Resolution

If a dispute between Us and You occurs then either party shall send to the other party a notice of dispute in writing adequately identifying and providing details of the dispute. Within 14 days after the service of a notice of dispute, the parties shall confer at least once to attempt to resolve the dispute. At any such conference each person shall be represented by a person having authority to agree to a

resolution of the dispute. In the event that the dispute cannot be resolved either party may by further notice in writing delivered by hand or send by certified mail to the other party refer such dispute to arbitration. Any arbitration shall be

1. Referred to a single arbitrator to be nominated by the president of the Institute of Arbitrators Australia, and
2. Conducted in accordance with the Institute of Arbitrators Australia rules for the conduct of commercial arbitration

### Termination

We can end this Agreement immediately if any of the following occurs:

1. You are in breach of this Agreement and the breach is incapable of remedy;
2. You are in breach of this Agreement and, such breach being capable of remedy, do not remedy the breach within 14 days of Our notice requiring You to do so;
3. You become insolvent, convene a meeting with Your creditors or propose or enter into an arrangement with Your creditors, or make an assignment for the benefit of Your creditors or,
4. A receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of You or any asset of Yours.
5. Any money payable to US becomes overdue, or in Our opinion You are unable to meet payments as they fall due
6. We are required to end this Agreement by a competent regulatory authority
7. On termination of this Agreement for any reason You will pay Us all outstanding Charges due under this Agreement

### Privacy

To understand Our practices, please review Our Privacy Policy that also governs Your visit to Our Website and use of Our Services. A complete statement of Our privacy policy can be found at [www.HotAirConferencing.com.au](http://www.HotAirConferencing.com.au)

### Privacy Act 1988

You agree for US to obtain from a credit reporting agency a credit report containing personal credit information about You in relation to credit provided by US.

You agree that We may exchange information about You with those credit providers either named as referees by You or named in consumer credit report issued by a credit reporting agency for the following purposes:

1. To assess an application by You and/or
2. To notify other credit providers of a default by You and/or
3. To exchange information with other credit providers as to the status of Your Account where You are in default with other credit providers and/or
4. To assess the credit worthiness

You consent to US being given a consumer credit report to collect overdue payment on commercial credit (Section 18K (1) (h) Privacy Act 1988)

You agree that personal credit information provided may be used and retained by Us for the following purposes and for other purposes as shall be agreed between You and Us or required by law from time to time.

1. Provision of service and/or
2. Analysing, verifying and/or

3. Checking Your credit payment and/or status in relation to provision of services and/or
4. Processing of any payment instructions, direct debit facilities and/or credit facilities requested by You and/or
5. Enabling the daily operation of Your Account and/or the collection of amounts outstanding on Your Account in relation to the Services.

We may give information about You to a credit reporting agency for the following purposes:

1. To obtain a consumer credit report about You
2. Allow the credit reporting agency to create or maintain a credit information file containing information about You.

### Ownership

All rights that are not granted to You are reserved by Us. The Services, Our technology, and any updates or improvements to the Services and Our technology, are owned by Us and Our vendors and licensors. We and Our vendors and licensors own all copyrights, patents, trademarks, trade secrets, and other intellectual property rights relating to or residing in Our Services. You understand that Our Services and technology contain valuable software and confidential information and You agree that You will not modify, reverse engineer, decompile, create other works from, or disassemble any of Our software without Our prior written consent.

### Intellectual Property

Our graphics, logos, page headers, button icons, scripts, and service names are trademarks or trade dress of Ours. Our trademarks and trade dress may not be used in connection with any product or service that is not provided or authorised in writing by Us, or in any manner that is likely to cause confusion among customers, or in any manner that disparages or discredits Us. All other trademarks not owned by Us that appear on this site are the property of their respective owners, who may or may not be affiliated with, connected to, or sponsored by Us.

### Force Majeure

We will not be liable to You for any non-performance of Our obligations under this Agreement due to acts of God, war or national emergency, terrorism, riots, civil commotion, fire, explosion, flood, epidemic, strikes, lock-outs (whether including Our workforce or the workforce of any other party) and other industrial disputes, acts of government, highway authorities, telecommunications operators or other competent authorities or inability in obtaining supplies or services from third parties or due to any cause beyond Our reasonable control.

### Assignment

This Agreement may not be transferred to anyone else without Our agreement. We may license or subcontract all or any part of Our rights and obligations without Your consent.

### Modification and severability

We reserve the right to make changes to Our site and policies at any time. If any of these conditions are deemed invalid, void, or for any reason unenforceable, that condition will be deemed severable and will not affect the validity and enforceability of any remaining conditions.

We reserve the right to review these terms and conditions at any time. If, following any such review there is to be any change to these terms and conditions then that change will take effect from the date on which We notify You of such change.

### The commonwealth Trade Practices Act 1974 and Fair Trading Acts

Nothing in this agreement is intended to have the effect of contracting out of any applicable provisions of The commonwealth Trade Practices Act 1974 and Fair Trading Acts in each of the States and Territories of Australia, except to the extent permitted by those acts where applicable.

### Jurisdiction

These Terms and conditions and any contract to which they apply will be governed by the laws of Victoria, Australia and are subject to the jurisdiction of the courts of Victoria.