



UNISCOPE
COMMUNICATIONS

UNISCOPE COMMUNICATIONS PTY LTD
MASTER SERVICES AGREEMENT

ABN: 80 159 470 943

Unit 3/10,
Advantage Way,
Wangara, Western Australia,
6065.

T: (08) 6555 5850
E: info@uniscope.com.au
W: www.uniscope.com.au

Table of Contents

1	Definitions	3
2	Application for Services	5
3	Payment for Services	5
4	Term of the Contract	6
5	Charges for provision of Services	6
6	Sale of equipment.....	6
7	IP addresses, domain names and telephone numbers.....	6
8	Access to Premises	7
9	Support Line	7
10	Use of the Services.....	7
11	Taxes, charges, levies and GST	8
12	Variations to provision of Services	9
13	Suspension and termination.....	9
14	Limitation of liability.....	10
15	Other matters.....	11
16	Choice of law	12
17	Dispute resolution	12
18	Variations to agreement.....	12

Background

- A. This document sets out the terms and conditions upon which we will provide Services to you.
- B. Our Contract with you (the **Contract**) consists of the following:
- (i) these terms and conditions;
 - (ii) your Application;

If there is any inconsistency in the documents listed above, then the order of precedence shall be in the order as the documents are listed above.

Terms and Conditions

1 Definitions

In the Contract unless the context otherwise requires:

Application	means any application that you make to us for provision of Services whether by means of the process set out in clause 2 of this document, or otherwise;
Charges	means the aggregate of the costs for the Services as detailed in Schedules D,E and F of the Application or such other amounts as we may agree with you from time to time, together with an additional amount of 10% being the GST which we must charge you;
Consequential Loss	means any loss arising under, or alleged to be arising under, the Contract, whether founded in contract, tort (including negligence) or otherwise in the nature of the following: <ul style="list-style-type: none">(a) loss of profits;(b) loss of anticipated business, savings or revenue;(c) loss of opportunity;(d) loss of any electronic information or data of any nature whatsoever;(e) pure economic loss;(f) any expectation loss;(g) any punitive or exemplary loss;(h) any indirect loss;(i) any special loss;(j) any loss which we could not have reasonably foreseen;

- (k) any loss that is not a direct consequence of us entering into the Contract;
- (l) any loss that is in excess of the amount set out in clause 14 of this document;
- (m) any fines imposed by any Authority (including any penalties or taxes imposed by any Authority).

Insolvency Event

means you:

- (a) become insolvent (as defined in the *Corporations Act*;
- (b) are placed into administration (as defined in the *Corporations Act*);
- (c) have an administrator appointed (as defined in the *Corporations Act*);
- (d) have a controller appointed (as defined in the *Corporations Act*);
- (e) are in liquidation or in provisional liquidation;
- (f) have a receiver (as that term is defined in the *Corporations Act*) appointed to you or over any property of any nature whatsoever owned by you;
- (g) are not able to pay your debts when they become due;
- (h) suspend payments of your debts or any part of your debts;
- (i) have bankruptcy proceedings issued against you;
- (j) become bankrupt.

Network

means the facilities and infrastructure used by us to provide the Services;

our or us or we

means Uniscope;

Our Telephone Number

means (08 6555 5850);

Our Website

means (www.uniscope.com.au).

Parties

means the parties to the Contract whether collectively or individually (as the case requires);

Premises

means any premises or property on which the Services are used or through which the Services are provided;

Regulation

means any Regulation enacted to operate in conjunction with any Statute;

Services

means the services that we agree to provide to you pursuant to the Contract;

Statute

means any statute of the Commonwealth of Australia or any State of the Commonwealth of Australia which is applicable to the operation of the Contract;

Support Line

means any telephone support service through which we provide

	any advice or opinion to you in relation to the Services or any other service (of any nature whatsoever) that we may offer to you or any other person;
Term	means the number of months requested listed in your Application;
The Contract	means these terms and conditions and you Application;
you or your	means any Party to the Contract other than Uniscope.

2 Application for Services

- 2.1 An Application for us to provide Services to you can be made by:
- (a) submitting a completed online application form, which can be found at Our Website;
 - (b) completing a written application in the form required by us from time to time, and submitting it to us either in person, by mail or by fax;
 - (c) by telephoning one of our customer service representatives on Our Telephone Number, who will assist you to complete an application and then email or fax to you our terms and conditions (as contained in this document).
- 2.2 We may accept any application made by you for the provision of Services in our absolute discretion.
- 2.3 For the purposes of us assessing whether to provide Services to you, we rely on the information that you supply in any your Application together with any other information that you provide to us, which is relevant to our decision as to whether to provide Services to you. You warrant the information that you provide to us is accurate including, and not limited to, the following:
- (a) any financial information that we require to assess your credit worthiness;
 - (b) your address;
 - (c) your email and telephone contact details;
 - (d) your name;
 - (e) details concerning any company or business controlled or run by you or in relation to which you are associated;
 - (f) your credit card or debit card contact details; and
 - (g) any other personal information that you provide to us..

3 Payment for Services

- 3.1 If we accept your Application and agree to provide Services to you, then we will charge your debit or credit card (details of which you provide to us at the time you make your Application) on a monthly basis.

4 Term of the Contract

- 4.1 The Contract commences on the date that appears on the top of your Application and continues for the Term. At the end of the Term we may elect to continue to provide the Services to you and if you accept those Services then you authorise us to continue charging you at the agreed rates until you notify us in writing that you no longer wish to receive the Services.
- 4.2 For the purposes of the previous subparagraph, you are required to give us at least 30 days notice of the date upon which you wish for us to cease providing the Services to you pursuant to the Contract.

5 Charges for provision of Services

- 5.1 The Charges for the Services to be provided to you pursuant to the Contract will remain fixed for the Term save and unless the Contract specifically provides otherwise.
- 5.2 Following the expiration of the Term, if we continue to provide the Services to you and continue to accept the Services then we may by written notice to you advise you of a change in the cost of the Services. If we provide you with such a notice, then unless you advise us within 30 days of receipt of that notice that you do not wish to receive the Services at the varied rate then you agree to pay for the Services at the rates specified in the notice sent to you.

6 Sale of equipment

- 6.1 At or about the time the Contract is negotiated with you, we may offer to sell you certain equipment to enable you to receive the Services which are the subject of the Contract.
- 6.2 If we agree to sell you equipment, that equipment is listed in the Application and the price at which we agree to sell it to you is also listed in the Application. Prior to provision of any equipment to you, you are required to pay in full for that equipment and at that time we will issue a tax invoice to you for its sale.
- 6.3 Save and except for any statutory warranty that we cannot contract out of, you acknowledge the equipment provided to you is designed and manufactured by third parties and we make no representations as to its fitness for purpose or provide any warranty in respect of it.

7 IP addresses, domain names and telephone numbers

- 7.1 For the purpose of providing the Services to you, we may allocate to you a telephone number. You are entitled to continue to use any telephone number that is issued to you unless the *Telecommunications Number Plan 1997 (Cth)* permits us to recover that telephone number from you.
- 7.2 In order for us to provide the Services to you, those Services may require the use of either domain names or IP addresses. It is a condition of the Contract that you comply with any requirements of any Statute, Regulation or Authority in terms of the maintenance and use of any IP address or any domain name.
- 7.3 You unconditionally acknowledge that:

- (a) we are not liable to you for any change that may affect the use of any IP address or domain name that arises by reason of the requirements of any Statute, Regulation or Authority;
- (b) we do not control the use or allocation of domain names or IP addresses; and
- (c) that on cancellation or cessation of the Services any right that you have to use an IP address or a domain name may cease.

8 Access to Premises

- 8.1 You acknowledge that in order for us to provide the Services to you it may require us to enter Premises to do one or more of the following:
- (a) assess the relevant infrastructure in place and ascertain whether that infrastructure is capable of supporting the Services;
 - (b) install any equipment that may be required for us to provide the Services; or
 - (c) ascertain the cause or source of any matter that you have referred to us for resolution.
- 8.2 Should we be required to attend the Premises, or should any of our agents be required to attend the Premises, then you absolutely indemnify us and our agents for any loss and damage of any nature whatsoever, as a result of entry into the Premises, save and except that loss and damage is caused by the negligence of us or our agents.
- 8.3 If the Premises are not owned by you, then you warrant that at the time you permit us to access the Premises that you have irrevocable permission from the owner of the Premises for us to access the Premises.

9 Support Line

- 9.1 In order for us to provide you with technical assistance, we may offer the use of a Support Line.
- 9.2 If we do offer you the use of a Support Line, the use of that Support Line does not form part of the obligations on us pursuant to his Contract and is provided by us at our sole discretion.
- 9.3 You acknowledge and agree that if you use the Support Line then to the extent permitted by law we are not liable, including in negligence, for any loss or damage alleged to be suffered by you arising from any information or opinion that you may receive through use of the Support Line.
- 9.4 If we do offer you a Support Line, then the scope of matters upon which we may offer an opinion is a matter for our complete discretion.

10 Use of the Services

- 10.1 We may immediately suspend the provision of Services to you if you breach any of the terms set out in this clause.
- 10.2 You must not use the Services for any illegal purpose.
- 10.3 You must not use the Services in any way which will, or is likely to, damage the Services or in any way interfere with the provision of the Services by us.

- 10.4 You must not use the Services in any way that is prohibited in the Application or any other document that forms part of the Contract.
- 10.5 You must not use the Services to defame or harass any person including any of our staff.
- 10.6 You must not use the Services to abuse any person including any of our staff.
- 10.7 You must not use the Services to promote any fraudulent scheme or financial scam including any scheme by which money or other benefit is obtained through dishonest means.
- 10.8 You must not use the Services to conduct any activity which would have the consequence of overrunning or overloading the equipment by which we supply the Services to you, or equipment owned or operated by any other person.
- 10.9 You must not use the Services to distribute virus software or any other software which the end user has not authorised you to provide to them.
- 10.10 You must not use the Services to distribute any material of any nature whatsoever that has any content which is:
- (a) unlawful in Western Australia;
 - (b) unlawful in the State in which you operate;
 - (c) unlawful pursuant to the laws of the Commonwealth of Australia; or
 - (d) unlawful pursuant to the laws of the place where you propose to send the relevant information.
- 10.11 You must not use the Services for the purposes of hacking the computer system or computer network owned and operated by any other person.
- 10.12 You must not use the Services for the purposes of causing any loss of data to any third party including us.
- 10.13 You must not use the Services for the purpose of breaching any intellectual property right of any third person including any patent, design, trademark, or copyright.
- 10.14 You must not use the Services for any purpose which may directly, or indirectly, harm or kill any person.
- 10.15 You must not use the Services in a way which would breach the *Spam Act 2003* or any regulations made pursuant to that Act.

11 Taxes, charges, levies and GST

- 11.1 If during the Term we are levied with any additional tax, charge, levy, GST or other fee imposed by any Authority in relation to the provision of the Services which we not liable for at the time we signed the Contract, then in addition to any fee or charge that may be payable by you pursuant to the Contract, we may charge you the additional amount that we have become liable for.
- 11.2 If we become liable to pay any amount of money as a result of you breaching any term of the Contract then you must pay to us an amount which is equal to that to which we have become liable.

12 Variations to provision of Services

- 12.1 During the Term, you may at any time request that we alter or change the Services that we provide to you pursuant to the Contract.
- 12.2 If you request us to change the Services we may at our absolute discretion:
- (a) not change the Services;
 - (b) change the Services in the way that you request or
 - (c) speak with you about whether we change the Services partly in ways requested by you and partly not in accordance with your request.
- 12.3 If we change or alter the Services as a result of matters referred to in the previous subparagraph, then prior to us doing so we will provide you with details as to the pricing of the amended Services which you must accept in writing before we provide those Services to you.
- 12.4 If you agree to the amended pricing for the altered or changed Services, then the pricing that you agree with us will operate as if it is an addendum to the Contract and will form part of the Contract.

13 Suspension and termination

- 13.1 We may at any time after execution of the Contract, but prior to the provision of the Services, and without liability, terminate the Contract by notice to you if we determine that the provision of Services pursuant to the Contract are not commercially or technically capable of being provided in a way which is realistic or feasible.
- 13.2 We may without liability discontinue the provision of the Services at any time after the expiration of the Term unless we have otherwise agreed with you not to do that.
- 13.3 We may cancel or suspend the provision of Services to you if:
- (a) we, acting reasonably, consider that you have used the Services for the perpetration of any illegal activity or any other activity that is prohibited by the terms of the Contract;
 - (b) you fail to pay us any amount owing pursuant to the Contract within 10 days after we give you notice requiring you to pay that amount;
 - (c) you breach any material term of the Contract in a way that is not capable of remedy, or if it is capable of remedy, you do not remedy that breach within 10 days of us giving you written notice to do so, or within such longer period as we may specify in that notice;
 - (d) you attempt to on-sell or re-sell any of the Services that we provide to you;
 - (e) acting reasonably, we consider that any activity engaged in by you in relation to the Services has or may result in us being exposed to risks which may effect the security or commercial viability of our business or the infrastructure by which we provide the Services to you;
 - (f) either you or one of your Related Bodies Corporate (as that term is defined in the *Corporations Act*) is subject to an Insolvency Event;
 - (g) if you are an individual, you die or in the event you are a corporation, you cease to be registered or are de-registered;



- (h) you advise us that you no longer intend to conduct the activities for which the Services are provided to you.

13.4 In addition to the above we may immediately cancel or suspend the provision of any of the Services if:

- (a) we are required by law to do so;
- (b) there is an emergency of such a nature that we, acting reasonably, should suspend the Services;
- (c) it is necessary for us to do so in order to repair, upgrade, service or maintain any part of the Network or any other infrastructure (whether owned by us or any third party) which we require in order to provide the Services to you;
- (d) we are issued with a notice from any Authority which requires us, acting prudently, to suspend the Services;
- (e) an event of force majeure occurs;
- (f) any third party who provides services to us cancels, suspends or otherwise does not provide the services to us, and we require those services in order to provide the Services to you.

13.5 If we cancel the Services:

- (a) if that cancellation is due to any fault or breach on your part then you must pay us the full amount which would be due pursuant to the Contract for the Term including any amount that you owe us in respect of equipment that you have purchased from us;
- (b) if the cancellation is not due to any fault or breach on your part then you must pay us only for the Services provided to you prior to the cancellation plus any amount that you owe us for equipment that you may have purchased from us;
- (c) you must immediately stop using the Services and return to us any equipment that we have loaned to you in order that you were able to use the Services;
- (d) we may immediately delete any information or data that we hold whether by way of storage or as a consequence of the provision of the Services to you.

14 Limitation of liability

14.1 Save for any circumstances where we are not permitted to exclude our liability for any loss or damage in connection with the provision of Services to you (whether by reason of the Australian Consumer Law, any applicable consumer guarantee or otherwise) then our liability to you is limited to:

- (a) resupplying the Services to you, or the cost of the provision of resupplying the Services to you; or
- (b) the total amount of any monies that you are liable to pay us pursuant to the Contract.

14.2 Save for any liability that any law prohibits us from excluding, or any liability that we have expressly accepted by reason of the terms of the Contract, we are not liable to you for any other loss arising in any way whatsoever (including in negligence) arising in any way from:

- (a) our performance of the Contract;
 - (b) any suspension or cancellation initiated by us in relation to the provision of the Services to you; or
 - (c) arising in any way from the relationship that we have with you as a consequence of entering into the Contract.
- 14.3 We are not liable to you, and expressly exclude, any liability to you for any Consequential Loss suffered or incurred by you as a result of any matter connected with the Contract or the provision of Services to you unless we are not permitted at law to exclude that loss.
- 14.4 We are not liable to you in any way whatsoever, save and except that we may not exclude that loss at law, if a force majeure event occurs.
- 14.5 Save that any law prohibits us from excluding such loss, we are not liable to you for any loss or damage that you suffer as a result of the conduct or activities of any third person who is not an agent of ours.
- 14.6 To the extent any loss or damage is suffered by you in connection with the Contract or the provision of the Services to you, any liability we have to you is reduced to the extent that loss is caused by you, any other thing not connected with us, or any third party.

15 Other matters

- 15.1 You are not permitted to transfer or assign your rights pursuant to the Contract to any other party unless we have authorised you in writing to do so.
- 15.2 We may provide any of the Services that we are required to provide pursuant to the Contract by organising those Services to be performed by another person or entity.
- 15.3 We may transfer or assign some or all of our obligations and rights pursuant to the Contract to:
- (a) another person or entity; or
 - (b) any person or entity that acquires or purchases some or all of our business.
- 15.4 By not exercising any right that we may have pursuant to the Contract, we do not waive that right, or any other right, unless we have expressly agreed in writing to do so.
- 15.5 If any equipment or thing supplied by us is subject to any third party software licence, then you must comply with that third party software licence as a condition of the Contract.
- 15.6 You acknowledge and agree that as a result of the provision of the Services to you, or as a result of anything arising from the Contract, that you do not own or otherwise have any legal claim on any intellectual property owned by us and which is made available to you by reason of the provision of the Services to you, or by operation of the Contract.
- 15.7 To the extent that any part of the Contract is unenforceable for any reason whatsoever, then that provision will be severed from the Contract and the rest of the Contract will remain in full force and effect as if the severed provision did not ever exist.
- 15.8 Any written document or notice that must be produced by one party to the other party pursuant to the Contract can be:



- (a) sent by post, in which case it will be deemed to be received two days after it is sent;
- (b) sent by fax, in which case it will be deemed to be received immediately upon it being transmitted;
- (c) sent by email, in which case it will be deemed to be received immediately upon it being transmitted;
- (d) delivered to the other party, in which case it will be deemed to be received at the time at which it is delivered.

16 Choice of law

- 16.1 The Contract is governed by the law of Western Australia and each party to it agrees to submit to the exclusive jurisdiction of the courts of Western Australia;

17 Dispute resolution

- 17.1 Upon any dispute arising in relation to the Contract, the Parties must use their reasonable endeavours to confer in relation to the dispute. If a dispute is not capable of resolution then either Party may use whatever legal dispute resolution process is available to it.

18 Variations to agreement

- 18.1 There will be no variations to the Contract unless all Parties to it agree to any variation in writing.



UNISCOPE
COMMUNICATIONS