

Standard Order Terms for the supply of VicTrack Products and Services (Telecommunications)

Version: 1.1

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1. Application

These Standard Order Terms apply to the supply of Products and/or Services by VicTrack to the Customer under the Sales Order, unless VicTrack and the Customer have previously entered into, or intend to enter into, a separate Head Agreement in respect of the supply of the relevant Products and/or Services, in which case that Head Agreement applies to the supply of those Products and/or Services.

2. Agreement for the Supply of Products and/or Services

- (a) Subject to clause 2(b), a Sales Order Contract is deemed to have been formed and entered into between VicTrack and the Customer for the supply by VicTrack of Products and/or Services the subject of a Sales Order upon the Customer accepting a Sales Order by:
 - (i) returning a copy of the Sales Order signed by an authorised signatory of the Customer to VicTrack (subject to any waiver of this requirement in writing by VicTrack); and
 - (ii) issuing a Purchase Order to VicTrack for the supply of the Products and/or Services in the Sales Order (unless VicTrack has confirmed in writing that a Purchase Order is not required for invoicing).
- (b) A Sales Order Contract will not form in accordance with clause 2(a) if:
 - (i) any part of the Sales Order except for the signature block has been modified;
 - (ii) the Sales Order has been signed by a representative of the Customer not authorised to bind the Customer;
 - (iii) the Customer has not provided a valid Purchase Order to accompany the Sales Order (where required); or
 - (iv) the Sales Order expired or was withdrawn or replaced by VicTrack prior to the Customer submitting a signed Sales Order and a Purchase Order to VicTrack (where required).
- (c) The Sales Order Contract comprises the Sales Order (including all schedules and attachments), these Standard Order Terms and any other documents referred to in the Sales Order, but for the avoidance of doubt, excludes any Purchase Order.
- (d) The Sales Order Contract commences on the Commencement Date, and will continue for the Term, unless terminated earlier in accordance with the terms of the Sales Order Contract.
- (e) Notwithstanding any other provision of these Standard Order Terms, the application of these Standard Order Terms to a Sales Order Contract may be amended by way of Special Terms included in the relevant Sales Order.
- (f) Subject to clause 4, any amendments to a Sales Order Contract must be in writing and signed by the parties.

3. VicTrack's Obligations

3.1. VicTrack Products

- (a) VicTrack will use reasonable endeavours to supply the Products to the Customer on or before the Delivery Date.

- (b) VicTrack must ensure that:
 - (i) the Products, unless otherwise agreed in writing by the Customer, are new and of merchantable quality;
 - (ii) the Products materially conform with the Specifications; and
 - (iii) there is no restriction on or impediment to the passing of full title in the Products to the Customer.
- (c) Title in Products (other than software) passes to the Customer upon payment by the Customer of the Fees for the Product.
- (d) Risk in Products passes to the Customer upon delivery of the Product to the Delivery Address.

3.2. VicTrack Services

- (a) VicTrack will provide the Services:
 - (i) during the Term; and
 - (ii) to a standard that materially conforms with the Specifications.
- (b) In the course of providing the Services, VicTrack will:
 - (i) use reasonable skill and care to a standard that is no less than could reasonably be expected of a service provider similar to VicTrack providing services similar to the Services;
 - (ii) use reasonable endeavours to provide the Services in accordance with any Service Levels;
 - (iii) comply with all applicable Laws;
 - (iv) ensure that its Personnel engaged in the performance of the Services:
 - (A) are suitably skilled, qualified and experienced;
 - (B) to the extent not inconsistent with any other terms of the Sales Order Contract, carry out their duties in accordance with any reasonable, applicable Customer policies and procedures that are advised to VicTrack in writing prior to the commencement of the Services; and
 - (C) to the extent not inconsistent with any other terms of the Sales Order Contract, follow all reasonable site access and site security policies and procedures of the Customer that are notified to VicTrack in writing from time to time; and
 - (v) promptly notify the Customer of any circumstances of which it becomes aware which are likely to impact its ability to perform its obligations under the Sales Order Contract.

3.3. VicTrack Subcontracting

The Customer acknowledges that VicTrack may engage suppliers and subcontractors to deliver its Products and/or Services and is not required to seek the Customer's approval for such engagements.

4. Changes to the Services or Products

- (a) VicTrack may, at any time, propose a Change to the Products or Services, which proposal must:
 - (i) be made in writing;
 - (ii) describe the Change proposed;

- (iii) specify the effect of the Change on the Fees; and
- (iv) state the impact (if any) on the Delivery Date,
(Change Proposal).
- (b) The Customer may request a Change to the Products or Services by written notice to VicTrack of the requested Change (**Change Request**).
- (c) On receipt of a Change Request, VicTrack must, within a reasonable time, provide the Customer with a response in the form of either a Change Proposal, or a notice that the Change Request is refused (with reasons).
- (d) Upon receipt of a Change Proposal pursuant to clause 4(a) or 4(c), the Customer may, by written notice to VicTrack:
 - (i) accept the Change Proposal in full; or
 - (ii) reject the Change Proposal.
- (e) If the Customer has not accepted the Change Proposal in accordance with clause 4(d) within 10 Business Days of receiving the Change Proposal, it will be deemed to have been rejected.
- (f) If the Customer rejects a Change Proposal (or it is deemed rejected), the parties may negotiate in good faith to agree amendments to the Change Proposal or otherwise agree upon a suitable alternative to VicTrack carrying out the Change.
- (g) If:
 - (i) the parties have not agreed on amendments to the Change Proposal, or to a suitable alternative, within 20 Business Days of a Change Proposal being rejected; and
 - (ii) VicTrack considers, acting reasonably, that if the Change is not carried out, it will be unable to continue performing its obligations under the Sales Order Contract, VicTrack may terminate the Sales Order Contract by written notice to the Customer, whereupon:
 - (iii) the Customer must pay to VicTrack any amounts due which remain unpaid and the amount on account of the Fee which would have been payable for Products and Services supplied prior to the date of termination, had the Sales Order Contract not been terminated; and
 - (iv) subject to clause 4(g)(iii), VicTrack must refund (as appropriate) any amounts paid by the Customer to VicTrack on account of the Fee for any Products or Services not supplied to the Customer prior to the date of termination.
- (h) VicTrack is not required to commence supplying any Products and / or Services the subject of a Change Proposal or a Change Request unless and until the Customer gives written notice to VicTrack of its acceptance of the Change Proposal, or any amended Change Proposal resulting from the negotiations contemplated by clause 4(f).
- (i) Upon written notice by the Customer of its acceptance of the Change Proposal (or amended Change Proposal), VicTrack must carry out the Change, and the Fees will be adjusted in accordance with the Change Proposal.

5. Customer's Obligations

The Customer agrees that it:

- (a) will, at its cost, when reasonably requested by VicTrack, provide reasonable assistance to VicTrack to enable it to:

- (i) conduct any installation and commissioning related activities, including pre-delivery testing, or any other validation procedure as specified in the Sales Order, in a safe and secure environment;
 - (ii) comply with all applicable regulatory obligations in relation to any Services; and
 - (iii) monitor, reduce and to the extent possible, prevent, the incidence of unlawful activities that may occur in relation to the use of any Services;
- (b) must not resell, resupply, distribute or share any Products and/or Services without VicTrack's consent; and
- (c) must not use, or attempt to use, or permit or authorise the use of any Services in any manner which may constitute:
- (i) a contravention or an infringement of any Law;
 - (ii) a contravention or an infringement of any duty or obligation in contract, tort or otherwise to any third person; or
 - (iii) the commission of an offence or any use in connection with the commission of an offence.

6. Payment and invoicing

- (a) The Customer must pay VicTrack the Fees on the terms of the Sales Order Contract.
- (b) The Fees are not subject to variation other than as provided for in the Sales Order Contract or with the written agreement of the parties.
- (c) VicTrack will invoice the Customer for the Fees and any other amounts due and payable by the Customer under the Sales Order Contract, at the times stated in the Sales Order or if no time is specified, upon delivery of the relevant Product(s) or Service(s).
- (d) The Customer must pay all validly rendered invoices in full within 30 days of the date of the invoice or such other period as is specified in the invoice.
- (e) If the Customer has a bona fide objection to the amount claimed in an invoice, it:
- (i) must pay the undisputed amount of the invoice; and
 - (ii) may withhold payment of the disputed amount until the objection is resolved, subject to the Customer referring its objection for resolution under clause 10.

7. Taxes

- (a) Unless otherwise stated in the Sales Order Contract, the Fees do not include any Taxes.
- (b) The Customer must pay all Taxes incurred by VicTrack in providing the Products and/or Services, which Taxes are due and payable at the same time as any payment amounts under the Sales Order Contract are due.
- (c) VicTrack will issue a Tax invoice to the Customer if GST is payable, or notionally payable, on a supply of Products or Services and the Customer must pay an additional amount equal to the GST by the due date for payment of the Tax Invoice.
- (d) To the extent that a party is required to reimburse or indemnify the other party for a loss, cost or expense incurred by that other party, that loss, cost or expense does not include any amount in respect of GST for which that other party is entitled to claim an input tax credit.

- (e) Any reference in this clause 7 to a term defined or used in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) is a reference to that term as defined or used in that Act.

8. Intellectual Property Rights

- (a) Each party will retain ownership of their Intellectual Property Rights in any material supplied or made available by them to the other party in relation to the supply of the Products and/or Services which was developed independently of the Sales Order Contract or developed prior to the Commencement Date (**Background Material**).
- (b) VicTrack will retain the ownership of all Intellectual Property Rights in any material created, written or otherwise brought into existence by or on behalf of VicTrack in the course of VicTrack's performance of the Sales Order Contract in which newly created Intellectual Property Rights subsists (**New Contract Material**) and grants the Customer a royalty-free, non-exclusive, non-transferable licence to use the New Contract Material for the purpose of receiving and enjoying the benefit of the Products and the Services.
- (c) The Customer grants to VicTrack a royalty-free, non-exclusive, non-transferable irrevocable, perpetual licence to use the Customer's Background Material for the purposes of VicTrack supplying the Products or Services.

9. Confidentiality

- (a) Subject to clause 9(b), each party and their Personnel shall not disclose the Confidential Information of the other party and will only use or reproduce Confidential Information of the other party for the purpose of performing its obligations or exercising rights under the Sales Order Contract.
- (b) A party may disclose Confidential Information of the other party:
 - (i) to its Personnel and professional advisors requiring access to the information in connection with the Sales Order Contract, provided that each such person has agreed to keep the information confidential;
 - (ii) with the other party's prior written consent;
 - (iii) to the extent required by Law, or any regulations or requirement of any government agency, regulatory authority or stock exchange; or
 - (iv) in the case of VicTrack, as may be required given its status as a statutory corporation.
- (c) All Confidential Information of the disclosing party will remain the property of the disclosing party and all copies or other records containing Confidential Information (or any part of it) must, except to the extent necessary to comply with any requirements of Law, upon request or upon termination or expiry of the Sales Order Contract, be returned by the receiving party to the disclosing party, or at the election of the disclosing party, destroyed.

10. Dispute resolution

- (a) If any dispute or difference arises between the parties arising out of or in connection with the Products and / or Services, or the Sales Order Contract (**Dispute**), it must promptly notify the other party in writing, providing details of the Dispute (**Dispute Notice**).
- (b) Within 10 Business Days after the Dispute Notice is received, a representative of each party must meet and use reasonable endeavours to attempt to resolve the Dispute by negotiation, including by involving a senior level executive in these meetings.

- (c) If the parties are unable to resolve the Dispute by negotiation within 20 Business Days of receipt of the Dispute Notice, either party may refer the Dispute to be finally resolved by arbitration administered by the Australian Centre for International Commercial Arbitration (**ACICA**). If within a further 14 days the parties have not agreed upon an arbitrator, the arbitrator will be nominated by ACICA. The arbitration shall be conducted in accordance with the ACICA Expedited Arbitration Rules.
- (d) Subject to clause 10(e), all Disputes will be resolved by negotiation in accordance with clause 10(b) or, if a Dispute is not resolved under clause 10(b), by arbitration in accordance with clause 10(c).
- (e) This clause does not prevent a party from seeking urgent injunctive or similar interim relief from a court.
- (f) Each party must bear its own costs in relation to complying with this clause 10, other than the costs and expenses of any arbitrator, which will be borne by the parties equally.

11. Suspension

- (a) VicTrack may (acting reasonably) immediately suspend or restrict the supply of the whole or part of any Products or Services if:
 - (i) there is an emergency;
 - (ii) an event beyond the reasonable control of VicTrack prevents or limits VicTrack's ability to supply the Service;
 - (iii) the Service is being used by the Customer or by any other person to commit an offence or contravene any Law;
 - (iv) it is necessary in order to comply with any Law or a request from a regulatory authority or law enforcement agency; or
 - (v) the Customer's use of the Products or Services interferes with or is likely to interfere with VicTrack's telecommunications network or infrastructure.
- (b) Without prejudice to VicTrack's right to suspend a Service immediately under clause 11(a), VicTrack will use reasonable endeavours to provide the Customer with such notice as is reasonably practicable if it intends to suspend any Products or Services.
- (c) Without limiting VicTrack's rights under clause 12, VicTrack may temporarily suspend or restrict the supply of any Products or Services:
 - (i) on 30 days' prior written notice to the Customer if the Customer has breached a term of the Sales Order Contract relating to the payment of any Fees or other amounts due and payable by the Customer under the Sales Order Contract; or
 - (ii) on reasonable prior written notice to the Customer for the purpose of conducting routine or scheduled maintenance on any VicTrack equipment or software used for the provision of the Services.

12. Termination

12.1. Termination for cause

- (a) Either party may terminate the Sales Order Contract by giving written notice to the other party if:
- (i) subject to clause 12.1(a)(iv), the other party breaches a material provision of the Sales Order Contract which is capable of remedy and fails to remedy that breach within 10 Business Days after receiving written notice from the other party;
 - (ii) the other party breaches a material provision of the Sales Order Contract, which is not capable of being remedied;
 - (iii) the other party becomes bankrupt or insolvent or has an administrator, receiver or scheme administrator appointed, and that administrator, receiver or scheme administrator does not adopt the Sales Order Contract and/or accept personal liability for performance of the Sales Order Contract within 3 Business Days of a written request to do so; or
 - (iv) in the case of Customer, the Products and/or Services delivered do not materially conform to the Specifications and VicTrack fails to remedy that failure within 10 Business Days after receiving written notice from the Customer, or such longer period as is reasonable having regard to the non-conformance and the action required to remedy the non-conformance.
- (b) If VicTrack is entitled to terminate the Sales Order Contract in accordance with clause 12.1(a), it may elect to suspend the supply of the whole or part of the Products and / or Services until the relevant termination event is rectified, without prejudice to its entitlement to terminate the Sales Order Contract for the termination event.

12.2. Termination by VicTrack

VicTrack may immediately terminate the Sales Order Contract by written notice to the Customer if:

- (a) the Customer has not paid the undisputed amount of an invoice within 30 days of written notice from VicTrack that the invoice has not been paid by the due date;
- (b) the Customer Misuses the Services, and does not cure the Misuse within 5 Business Days of being directed to do so by VicTrack; or
- (c) the Customer breaches, or is reasonably suspected of having breached clause 5(b), and has not ceased the conduct in breach of clause 5(b) within 5 Business Days of being directed by VicTrack in writing to do so.

12.3. Termination by the Customer for convenience

The Customer may terminate the Sales Order Contract at any time in part or in whole by providing at least 45 Business Days' prior written notice to VicTrack.

12.4. Consequences of termination or expiry

- (a) Upon termination of the Sales Order Contract, the Customer:
- (i) must pay to VicTrack any amounts due which remain unpaid and any unpaid Fees for the Products and/or Services supplied by VicTrack prior to the date of termination of the Sales Order Contract; and

- (ii) other than where the Customer terminates the Sales Order Contract pursuant to clause 12.1(a) or where VicTrack terminates the Sales Order Contract pursuant to clause 4(g), the Customer must pay to VicTrack all reasonable and substantiated amounts incurred by VicTrack in anticipation of providing any Services, including (but not limited to) any applicable cancellation charges, termination costs and other reasonable and substantiated unavoidable costs or expenses.
- (b) Upon termination or expiry of the Sales Order Contract:
- (i) VicTrack will immediately cease the supply of any Products or Services;
 - (ii) the Customer will return to VicTrack or permit VicTrack to retrieve all VicTrack equipment or software used for the provision of any Products or Services;
 - (iii) all rights accrued by a party prior to termination or expiry of the Sales Order Contract continue; and
 - (iv) the provisions of the Sales Order Contract which expressly or by implication from their nature are intended to survive termination or expiry will continue in full force and effect, including but not limited to this clause 12, clause 13 and clause 9.

13. Indemnities and Limitation of Liability

13.1. Indemnification by VicTrack:

VicTrack will indemnify the Customer and its Personnel (excluding where such Personnel are End Users) against all Losses suffered or incurred by the indemnified party in relation to:

- (a) any wilful misconduct, fraud or criminal act engaged in or committed by VicTrack or any of its Personnel;
- (b) any death, injury, disease or illness caused by any negligent act or omission of VicTrack or any of its Personnel; or
- (c) any Claim by any third party that the supply of any Products or Services to the Customer infringes the Intellectual Property Rights of that person.

13.2. Indemnification by Customer:

The Customer will indemnify VicTrack and its Personnel against all Loss suffered or incurred by the indemnified party in relation to:

- (a) any wilful misconduct, fraud or criminal act engaged in or committed by the Customer or any of its Personnel;
- (b) any death, injury, disease or illness caused by any negligent act or omission of the Customer or any of its Personnel;
- (c) any Claim by any third party for infringement of Intellectual Property Rights arising from or relating to the supply of any Products or Services that is attributable to an act or omission of the Customer or any of its Personnel; or
- (d) any Claim by any End User arising out of or in connection with the End User's use, consumption, receipt or reliance on the Products and/or Services.

13.3. Limitation on Liability

- (a) Subject to clause 13.3(b), to the maximum extent permitted by Law, the aggregate liability of both VicTrack and the Customer under or in connection with the Sales Order Contract in respect of any and all Losses and Claims is limited to \$50,000.00 or twice the amounts paid and payable by the Customer to VicTrack for the supply of the Products and/or Services under the Sales Order Contract, whichever is greater.
- (b) clause 13.3(a) does not limit:
 - (i) VicTrack's liability for the indemnities in clause 13.1; or
 - (ii) the Customer's liability for the indemnities in clause 13.2.

13.4. Consequential Loss

To the extent permitted by Law, neither party will be liable to the other party for any Consequential Loss arising out of or in connection with the performance of its obligations under the Sales Order Contract.

14. Compliance with Laws

Each party must comply with all applicable Laws in connection with its performance of its obligations under the Sales Order Contract.

15. Notices

- (a) Any notice, approval or consent required to be given under the Sales Order Contract must be in writing and must be delivered by hand, prepaid post, or electronic mail to the address of the party set out in the Sales Order (**Address for Notices**).
- (b) Notice will be considered to have been received:
 - (i) if sent by hand, when left at the address of the recipient;
 - (ii) if sent by prepaid post, four (4) Business Days after the date of posting; or
 - (iii) if sent by electronic mail, on the day of transmission as evidenced by an electronic communication transmission record,

but if a notice is served by hand, or is received by the recipient by electronic mail, on a day that is not a Business Day, or after 5:00 pm (recipient's local time) on a Business Day, the notice will be considered to have been received by the recipient at 9.00 am (recipient's local time) on the next Business Day.

16. General Provisions

Assignment: Neither party may assign or transfer its rights or obligations under the Sales Order Contract without the prior written consent of the other party, which will not be unreasonably withheld or delayed, save that VicTrack may novate, assign or otherwise deal with any of its rights or obligations under the Sales Order Contract without the Customer's consent if it is reconstituted, renamed or replaced.

Relationship: Except as expressly provided for in the Sales Order Contract, nothing contained or implied in the Sales Order Contract will create or constitute, or be deemed to create or constitute, a partnership, agency, trustee or other fiduciary relationship between the parties, and each of the parties agree that they are entering into the Sales Order Contract only as independent contractors. A party must not act, represent or hold itself out as having authority to act as the agent of or in any way bind or commit the other party to any obligation.

Waiver: The failure of a party to enforce or exercise at any time or for any period of time any term of or any right pursuant to the Sales Order Contract, does not constitute, and will not be construed as a waiver of such term or right and shall in no way affect that party's right to later enforce or to exercise it.

Entire Agreement: The Sales Order Contract represents the entire understanding of the parties and supersedes all prior agreements, arrangements, representations or understandings (if any) of the parties in respect of matters dealt with by the Sales Order Contract.

Severance: If any provision contained in the Sales Order Contract is found to be illegal, invalid or unenforceable under any applicable Law, that provision will firstly, be read down to give it efficacy and, if that is not possible then, secondly the provision will, insofar as it is severable from the remaining terms, be deemed omitted (as the case may be) and will in no way affect the legality, validity or enforceability of the remaining terms.

Governing Law and Jurisdiction: The Sales Order Contract is governed by the Laws of the State of Victoria, Australia. Each party submits to the non-exclusive jurisdiction of the courts of the State of Victoria, Australia.

Priority of documents: If there is any conflict between the terms of the Sales Order and these Standard Order Terms and any other documents referenced herein, the terms of the documents will prevail to the extent of the inconsistency, in the following order of precedence:

- (1) any Special Terms in the Sales Order;
- (2) any Service Terms or Product Terms in the Sales Order;
- (3) these Standard Order Terms;
- (4) the balance of the Sales Order (including schedules and attachments); and
- (5) any other documents referred to in the Sales Order.

To avoid doubt, any Customer terms or special conditions in the Purchase Order or similar document are excluded and do not apply to the Sales Order Contract.

17. Definitions and interpretations

17.1. Definitions

All capitalised words in these Standard Order Terms have the following meanings:

Acceptable Use Policy means the policy available at <https://www.victrack.com.au/-/media/victrack/documents/about/telecommunications-acceptable-use-policy.pdf>

Address for Notices has the meaning in clause 15(a).

Business Day means a day that is not a Saturday, Sunday, a public holiday or a bank holiday in the State of Victoria.

Change means any change to the Services or Products to be supplied under the Sales Order Contract, including any addition, increase, decrease, omission, deletion or removal to or from the Services or the Products.

Claim means any claim, allegation, suit, action, demand, cause of action or proceeding howsoever arising and whether present or future, fixed or unascertained, actual or contingent whether at Law, in equity, under statute or otherwise.

Commencement Date means the date on which the later of the requirements in clause 2(a) have either been satisfied by the Customer or waived by VicTrack.

Confidential Information means:

- (a) all information relating to or used by a party, including know-how, trade secrets, ideas, marketing strategies and operational information;
- (b) all information concerning the business affairs (including products, services, customers and suppliers) or property of a party, including any business, property or transaction in which the relevant party may be or may have been concerned or interested; and
- (c) any other information disclosed by or on behalf of a party that is marked as or a reasonable person would identify as confidential information,

but does not include information:

- (d) which is publicly known; or
- (e) which is disclosed to a party without restriction by a third party and without any breach of confidentiality by the third party.
- (f) which is developed independently by a party without reliance on any of the other party's Confidential Information.

Consequential Loss means any:

- (a) special, indirect, incidental, consequential, punitive or exemplary loss or damage; or
- (b) interruption to business, loss of revenue, loss of sales, loss of profits, loss of business, loss of opportunity or loss of goodwill.

Customer means the entity issuing the Purchase Order.

Delivery Address means:

- (a) the address for delivery specified in the Sales Order; or
- (b) if no address for delivery is specified in the Sales Order, the address specified in the Customer's Purchase Order; or

Delivery Date means the date for delivery specified in the Sales Order.

End User means customers of the Customer or any Related Body Corporate of the Customer who are the end users or ultimate consumers of Products or Services supplied by VicTrack to the Customer and on provided to that end user or ultimate consumer by or on behalf of the Customer or any Related Body Corporate of the Customer. End Users may be Personnel of the Customer.

Fees means the fees specified in the Sales Order for the supply of the Products and/or Services, as may be adjusted in accordance with the Sales Order Contract.

Head Agreement means an agreement executed by VicTrack and the Customer for the supply of Products and/or Services (and includes a "Telecommunications Services Agreement", "Master Services Agreement" or "Master Managed Services Agreement").

Intellectual Property Rights means all present and future industrial and intellectual property rights of any kind including but not limited to copyright (including rights in computer software), trade mark, service mark, design, patent, trade secret, semi-conductor or circuit layout rights, trade, business, domain or company names, Moral Rights, rights in Confidential Information, know how or other proprietary rights (whether or not any of these are registered and including any application, or right to apply, for registration) and all rights or forms of protection of a similar nature or having equivalent or similar effect to any of these which may subsist anywhere in the world.

Laws means any statute, legislation, law, regulation, by-law, scheme, determination, ordinance, rule or other statutory provision (made or passed by any Commonwealth, State or local government).

Loss or Losses means all losses, liabilities, fines, penalties, damages and claims, and all related costs and expenses (including any and all legal fees on a solicitor and client basis, and costs of investigation, litigation, settlement, judgment, appeal, interest and penalties).

Misuse means using a Service in a manner that:

- (a) breaches any Law, or amounts to the commission of an offence;
- (b) breaches any material provision of the Sales Order Contract, any provision of any applicable Acceptable Use Policy, or any provision of any applicable third party or end user terms;
- (c) infringes the rights of any person, including their Intellectual Property Rights, their Moral Rights or their rights to have information kept confidential; or
- (d) causes injury to or the death of any person,

and 'Misuses' has a corresponding meaning.

Moral Rights means rights of integrity of authorship, rights of attribution of authorship, rights not to have authorship falsely attributed and rights of a similar nature conferred by statute or otherwise anywhere in the world that may exist or that may come to exist in the future;

Personnel means a director, officer, employee, consultant, contractor, agent or sub-contractor of a party or any related body corporate of that party.

Products means the products to be supplied by VicTrack as described in the Sales Order.

Product Terms has the meaning in the Sales Order.

Purchase Order or **PO** means a purchase order issued by Customer to VicTrack accepting the supply of Products and/or Services the subject of a Sales Order.

Related Body Corporate has the meaning given in the *Corporations Act 2001* (Cth).

Sales Order means a document (including a "Customer Solution Proposal" or "Telflow Quote") prepared and provided by VicTrack to the Customer which references these Standard Order Terms and describes the Products and/or Services to be supplied by VicTrack, including any Specifications, the Fees and any other related matters.

Sales Order Contract means a contract formed in accordance with clause 2.

Services means the services to be supplied by VicTrack as described in the Sales Order.

Service Levels means the service levels (if any) set out or specified in the Sales Order and / or, where applicable, on VicTrack's Telecommunications Products and Services website (<https://www.victrack.com.au/services/telecommunications>).

Service Terms has the meaning in the Sales Order.

Special Terms has the meaning in the Sales Order.

Specifications means the functional, non-functional and technical requirements for the applicable Products and/or Services comprising:

- (a) the requirements agreed between the parties and set out in the Sales Order;
- (b) the Customer's business or user requirements, including functional and non-functional (including performance) requirements, which are described from a business perspective and in a non-technical manner and specified in the Sales Order; and
- (c) the functional and technical specifications set out or referred to in VicTrack's or the relevant manufacturer's (as the case may be) published technical and operating documentation including, where applicable, the VicTrack Products and Services documentation on VicTrack's Telecommunications Products and Services website (<https://www.victrack.com.au/services/telecommunications>).

Taxes means tax, levies, duty, charges, deduction or withholding imposed by law or a government agency, excluding income tax.

Term means the period for the supply by VicTrack of Products and/or Services commencing on the Commencement Date and continuing for the period set out in the Sales Order (unless terminated earlier in accordance with the Sales Order Contract), or such other period as is subsequently agreed by the parties.

VicTrack means Victorian Rail Track ABN 55 047 316 805.

17.2. Interpretation

- (a) Headings are for convenience only and do not affect interpretation.
- (b) The following rules apply unless the context requires otherwise:
 - (i) the singular includes the plural and vice versa;
 - (ii) a document (including the Sales Order Contract) is a reference to that document as amended, consolidated, supplemented, novated or replaced;
 - (iii) an agreement includes any undertaking, representation, deed, agreement or legally enforceable arrangement or understanding whether written or not;
 - (iv) a party means a party to the Sales Order Contract;
 - (v) a law includes any legislation, judgment, rule of common law or equity, and is a reference to that law as amended, consolidated, supplemented or replaced and includes a reference to any regulation, by-law or other subordinate legislation;
 - (vi) proceedings include litigation, arbitration and investigation;
 - (vii) where a word or phrase is defined, its other grammatical forms have a corresponding meaning; and
 - (viii) the terms "including", "for example", "such as" and similar terms do not imply any limitations.