

The Terms and Conditions below are only applicable to legacy month to month contracts.

## **Ignite Systems Terms and Conditions**

This Service Agreement (“Agreement”) covers the Terms and Conditions for the provision of the services and your use of the services described below (“Services”) supplied by Ignite Systems Pty Ltd (trading as Ignite ABN 56 602 383 620) (“we” or “Ignite”). By you (“You” or “Subscriber”) entering into an Agreement with Ignite for the provision of Ignite’s Service, you accept that your use of Ignite’s Services is subject to these Terms and Conditions which includes its Privacy Policy statement and any other terms contained on this website. Ignite’s Service is intended for Australian residents only.

### **1. Acceptance and Registration**

At time of acceptance of a written proposal, you indicate that you have read, reviewed and accepted the Terms and Conditions of this Agreement. You will be bound by these terms and they will form the Agreement between you and Ignite upon which the Services will be provided.

### **2. Services and Third Party Products**

**2.1** Ignite will provide you with the Services as detailed in the written proposal provided to the Subscriber. In order for Ignite to deliver these Services in a seamless and automatic manner, Ignite will need to remotely access your registered personal computer(s) and will need to undertake an initial audit of your computers’ hardware and software and install its suite of security and maintenance software in order to deliver its daily, on-going security, monitoring, support, backup services and any other services agreed to by the Subscriber. In so doing, Ignite may need to remove conflicting applications. Any such conflicts will be notified to you prior to their removal.

**2.2** To provide you with online support services and for your online interaction with support staff, you agree to allow these support staff to gain remote control of your personal computer in order to assist in undertaking support activities on your computer. To help diagnose your problems, the initial audit of each of your computers’ hardware and software is made available to support staff. The Subscriber’s interaction with Ignite will be via i) online support portal, or ii) phone call, or iii) email. Ignite will use its “best efforts” to solve a Subscriber’s computer problem but does not guarantee a solution.

**2.3** Subscribers have access to certain defined support services that are an included part of the monthly subscription fee. These support services are as outlined in the written Ignite proposal and as amended from time to time. These support services are subject to a “fair use” policy under which, at Ignite’s sole discretion, Ignite reserves the right to suspend or limit such Services if the Subscriber exceeds a reasonable level of use.

**2.4** Subscribers have access to defined remote desktop support for work other than that described in item 2.3 above. This support is provided on the basis of set fees that are detailed in the published Support Fee Schedules.

**2.5** Subscribers have access to on-site support. Such on-site support may be provided by Ignite staff or third party providers that are co-ordinated by Ignite. All costs associated with such onsite service will be in accordance with the published Support Fee Schedules, and the cost of any supplied hardware and/or software will be as per advice provided at the time. These costs will be in addition to the Subscriber's monthly subscription and billed directly to the Subscriber by Ignite. To ensure that the Subscriber's problems are rectified as quickly as possible, Ignite may provide the third party provider with the Subscriber's computer audit, diagnostic information and other relevant details pertaining to the Subscriber's problem.

**2.6** Upon acceptance of the written proposal outlining the Services to be delivered, Ignite grants you a limited licence to use the Services for the support of nominated computers. A separate subscription is required for each computer to be supported by Ignite's Services. The nomination of each computer to be supported is done after acceptance of the written proposal. Additional computer subscriptions can be added by contacting Ignite.

**2.7** The provision of support services to those nominated computers is contingent on all "connected computers" being supported by Ignite, where "connected computers" means computers connected on a regular basis to the same local area network as the nominated computers. In the event that all "connected computers" are not nominated for the provision of support services, Ignite reserves the right to increase the subscription fees or withdraw its service offering.

**2.8** Ignite's Services include a number of third party software products. Ignite as an agent provides you with a non-exclusive, non-transferable licence to use the third party software products. The ownership of these licences will remain with Ignite at all times. Such licences are provided to you under terms and conditions standard for such products as they relate to Intellectual Property ownership and protection, warranty, liability and indemnity. Subscribers must not misuse, copy, modify or distribute the software, or attempt to decompile, translate or otherwise derive the source code of the software, or infringe any intellectual property rights attaching to the software.

**2.9** Ignite's Services include a number of services provided by third parties. These are provided under the terms and conditions as defined by the providers of these services. Ignite will provide details of these terms and conditions upon request.

### **3. Your Equipment and Connection to the Internet**

**3.1** You are responsible for all equipment and software used to access your Broadband Internet Service Provider's (ISP) service – whether by cable, wireless or ADSL. The delivery of Ignite's service relies on your computer(s) being connected to the Internet. Ignite cannot accept any responsibility for the failure to provide its Service if your computer is not connected to the Internet via a broadband service.

**3.2** Ignite strongly recommends the use of an Internet service where upload is not metered as part of the monthly data limit. Ignite will not be held responsible for any excess data usage costs.

## **4. Security**

### **4.1** Ignite does not guarantee:

- i) the security of the Services or any systems (including the Internet and the Customer's hardware and software) used in accessing the Services, or any information passed through such systems;
- ii) access to the Ignite Services or any systems used in accessing the Ignite Services will be continuous or fault free.

## **5. Acceptable Usage**

### **5.1** You must not use Ignite's Services or the services of any of its partners:

- i) for any activities which violate any laws or regulations, infringe a third party's rights, or are contrary to any relevant codes;
- ii) for the posting or transmission of any false, libellous, obscene, indecent, inflammatory or pornographic material or material that could give rise to civil or criminal proceedings, as well as material that offends, defames, slanders, harasses, threatens, menaces or restricts any person;
- iii) for knowingly transmitting a virus, Trojan/spyware or other disabling feature to Ignite or its Subscribers or tamper with or make unauthorized modifications to Ignite's website or any of its services; and
- iv) to attempt any of the above acts or to permit any other person to be engaged in any of the above acts.

**5.2** If through the normal operation of the Ignite services, Ignite becomes aware, inadvertently or otherwise, of activities that are contrary to existing laws or regulations, Ignite will be legally obliged to notify the relevant authorities of any such contravention or breach of law or regulations.

## **6. Privacy**

**6.1** You acknowledge that under these Terms and Conditions, Ignite may provide personal information about you as part of the Services which is the subject of privacy laws. Ignite will comply with its Privacy Statement located on [www.ignite.com.au](http://www.ignite.com.au) in dealing with any information associated with your use of the Services. You must not breach or permit a breach of any other person's privacy in using the Services.

**6.2** You acknowledge and allow Ignite or its third party service providers to gain remote access to your computer in order to deliver the Services subscribed for by the Subscriber.

**6.3** Ignite takes reasonable steps to ensure that these third party organisations are bound by confidentiality and privacy obligations in relation to the protection of your personal information. To this end, Ignite will use its best efforts to ensure that your personal details are kept secure and protected, that data is encrypted where required, and that its third party service providers comply with these same privacy conditions.

## **7. Customer Communications**

**7.1** You acknowledge that where the Services require Ignite to email You, the following will apply:

- i) Ignite will address and send emails to You to the email address provided by You; You are solely responsible for ensuring that your contact details for the Services are current (including email address), your email service is operational and that you check your emails regularly;
- ii) You must notify Ignite of any changes to details relating to information You have provided to Ignite at the time of signing-up for the Services as soon as practicable via email to [support@ignite.com.au](mailto:support@ignite.com.au). This includes details such as contact information, company name, contact name, etc.;
- iii) if Ignite sends an email to your current email address as listed in your Services contact details, You are deemed to have received that email and Ignite is not obliged to take any further action to confirm that You have received, opened and/or read the email unless You promptly notify Ignite and demonstrate that the email was not delivered to your email address;
- iv) if Ignite receives an automated email non-delivery notification indicating You have not received the email that Ignite has sent You containing or regarding a subscription for a Service, Ignite will use reasonable endeavours to attempt to contact You using the other contact details that You provided when You contracted with Ignite for the provision of services, including non-electronic means, but does not guarantee that Ignite will be able to contact You.

## **8. Billing**

**8.1** By Subscribing to Ignite's Services, You agree to provide Ignite with a valid Credit Card (Visa or MasterCard) for the direct debit of the monthly billing of the Services or to arrange for the monthly payment of Services by other mutually agreed arrangements. As outlined in the written Ignite proposal and subject to Clause 13.1 below, your subscription term is one month and is on a month by month basis. Thereafter, your credit card will be automatically billed for the provision of the Services, and the Services will continue until we receive written notification from You to change or cease delivery of a specified service.

**8.2** Some Ignite services are billed monthly in advance and other services are billed in the month following the month that the services are delivered. The actual billing arrangement applicable to each service is as outlined in the written Ignite proposal and as amended from time to time. Unless there is a written request by You not to proceed with payment for Ignite services, payment for all billed services will be made against your nominated credit card, either on the due date, or within a reasonable period of time following the due date.

**8.3** In order for the Services to continue uninterrupted, Subscribers must inform Ignite if their credit card is due to expire two weeks prior to the expiry date and to provide Ignite with details of a current credit card. Ignite may cease supplying the Services two days prior to the expiration of the nominated credit card if updated credit card details are not provided. If any credit card or other agreed payments are overdue, Ignite reserves the right to immediately terminate the Services and recover all monies owing including recovery costs.

**8.4** A \$45 fee will apply if the Subscriber's financial institution rejects the monthly direct debit transaction.

**8.5** Ignite reserves the right to check Subscribers details with credit referencing bodies/associations.

**8.6** If arrangements are made to pay subscription invoices or support services invoices by means other than a credit card, a processing fee will apply, with the amount being as outlined in the written Ignite proposal and as amended from time to time.

**8.7** Tax Invoices for the setup of services and the first month's subscription are provided. Tax Invoices for subsequent monthly subscription payments are not provided unless there has been a change to the payment amount. Subscribers will be able to receive a Tax Invoice for each monthly subscription payment and a processing fee will apply, with the amount being as outlined in the written Ignite proposal and as amended from time to time. An annual payment summary for the last financial year is available for a \$20 fee.

## **9. Indemnity**

You indemnify Ignite and its officers, employees, agents and related bodies corporate from and against all actions, claims, suits, demands, damages, liabilities, costs or expenses arising out of or in any way connected to the use of the Services by You and You hereby release us from any claims against Ignite or its partners or service providers.

## **10. Limitation of Liability, Limited Warranty and Disclaimer**

**10.1** To the extent permitted by law, neither Ignite nor any of Ignite's officers, employees, agents, partners, service providers or related bodies corporate will be liable in any way (including for negligence) for any consequential, direct, incidental, indirect, punitive, special or other similar loss or damage, costs or expenses suffered by You or claims made against You through the use of the Services, any failure to provide the Services, or in connection with any products, services or information supplied, offered to be supplied or advertised via the Services.

**10.2** Any links to third party websites provided by Ignite via any documentation, including [www.ignite.com.au](http://www.ignite.com.au), does not imply any endorsement by Ignite of content made available from such websites and Subscribers use such content at their own risk.

**10.3** The cumulative liability of Ignite and/or its partners or service providers for all claims relating to the Services in contract, tort, or otherwise, shall not exceed the total amount of all fees paid to Ignite for the relevant Services within the prior six (6) months from which such claim arises.

**10.4** To the extent permitted by law, all warranties, conditions and representations about [www.ignite.com.au](http://www.ignite.com.au) or the Services, the fault free availability of [www.ignite.com.au](http://www.ignite.com.au) or the Services for access and use, the products and services advertised, offered to be supplied or the Services and the information provided on [www.ignite.com.au](http://www.ignite.com.au) or the Services are excluded. If a term is implied by law into these Terms and Conditions and the law prohibits provisions in a contract excluding or modifying liability under that term, then it will be included in these Terms and Conditions. However, our liability for breach of such term will be limited, at our option, to one or more of the following (i) the supply of the services again; or (ii) the payment of the cost of having the services supplied again.

**10.5** Ignite's subscription services and website (including all information and products that are referenced or linked to it) and all other information, documents, products, software, downloads, repair services, advice and information provided by Ignite and any of its third party product or service providers are provided "as is" and without warranty of any kind, either express, implied or statutory, including but not limited to implied warranties of merchantability, fitness for a particular purpose or non-infringement. Ignite assumes no responsibility for any errors, omissions or other inadequacies in the subscription services, Ignite website or any other information, documents, products, software, downloads, repair services, advice and information provided by Ignite or any of its third party product or service providers.

**10.6** You acknowledge that you have not relied on any representation made by Ignite which has not been stated expressly in these Terms and Conditions. Ignite may change these Terms and Conditions and any other information relating to the Services, including prices, at any time and your subsequent use of the Services will be governed by the varied Terms and Conditions. Without limiting Ignite's ability to give notice by any other means, the Subscriber will be deemed to have received adequate notice of such changes where Ignite places a notice on the Ignite website setting out such changes.

## **11. Pricing, Goods and Services Tax (GST)**

**11.1** All prices displayed on [www.ignite.com.au](http://www.ignite.com.au) and products and services offered to be supplied are in Australian dollars (AUD) and subject to change with one months notice.

**11.2** If GST is imposed on any supply made by us through the Services, You must pay to us, in addition to any consideration payable or to be provided by You for this supply, an additional amount for the supply calculated by multiplying the prevailing GST rate by the consideration for the relevant supply payable or to be provided (without any deduction or set off) by You under any other clause in these Terms and Conditions. Any amount payable by You is payable on demand by us, whether such demand is made by an invoice or otherwise.

## **12. Changes**

**12.1** We may amend any of these Terms and Conditions from time to time and any other information relating to the Services from time to time. Subscribers will be notified by email of major changes to these Terms and Conditions that will materially affect their on-going use of the Services. The Subscriber should also visit [www.ignite.com.au](http://www.ignite.com.au) regularly to be aware of other changes as they are bound by any revisions as at the date they are displayed. The Subscriber's continued use of the Services after such amended Terms and Conditions have been posted on Ignite's website or notified to Subscribers shall be deemed acceptance by Subscriber of the amended Terms and Conditions.

**12.2** Ignite may vary, withdraw and add to the Services offered to its Subscribers. Such changes will be notified one month in advance to Subscribers and will take effect from the next subscription period. If a Service is to be removed without a logical replacement, two months advance notice will be provided to Subscribers of such removal.



### **13. Termination and Refunds**

**13.1** A full refund of all payments related to service setup and monthly subscription will be made if the Subscriber decides to cancel the service within the first 60 days of service delivery. Any payments made for support services or supply of software and/or hardware will not be refunded.

**13.2** If, in Ignite's reasonable opinion, You breach any of these Terms and Conditions, we may suspend, terminate or limit your access to the Services and terminate the Terms and Conditions effective immediately. We reserve the right to discontinue one or more of the Services if your direct or indirect involvement in activities are detrimental to or jeopardize Ignite's Service. Any withdrawal by Ignite of the Services will not affect the validity or operation of any contract or licence governing the supply of goods and/or services acquired by means of the Services.

**13.3** You may terminate the Service at any time by giving written or electronic notice to Ignite. If the request for termination is made less than two weeks before your monthly renewal date, the next month's subscription is payable in full, and payment is due within 5 business days of receiving the request for termination. You must provide written or electronic advice of the actual date that you require Ignite to cease delivering the service, and this date must be during the period of your paid up subscription.

**13.4** Ignite may terminate the Service at any time by giving 30 days written or electronic notice to Subscribers.

**13.5** Given that Ignite's business is based on a monthly pre-paid subscription, a Subscriber's subscription will continue up to thirty days after renewal date for which payment has been received. There are no refunds for unused monthly services.

**13.6** On cancellation or termination of the Service, the Subscriber will be responsible for re-installing software that may have been removed as part of the installation and/or provision of Ignite's service.

**13.7** On termination of a Subscriber's service, Ignite is required under its licensing agreements to remove all software applications installed and managed as part of Ignite's services on all Subscriber's computers. Subscribers will allow Ignite online access as necessary to remove such applications, otherwise a removal fee per computer will apply to cover costs of making an on-site visit to carry out checks and where necessary the removal of all Ignite licensed software.

**13.8** Ignite shall not be responsible for retaining any of the Subscriber's Data after the Service termination date. Data may be deleted on the day of Service termination or at any time after the day of Service termination. Ignite will not restore, provide on any storage media or send out any Data pertaining to a terminated Service, unless specifically noted in an agreement between the parties. It is the Subscriber's responsibility to back-up and migrate Data and make alternative arrangements as appropriate prior to the Service termination date. For the purposes of this clause Data shall mean any information in electronic form that has been created as a result of the Services provided to the Subscriber, or Subscriber owned information in electronic form which is stored as part of provided Services and may include but is not limited to email, backup data, disaster recovery imaging files.

## **14. General Matters**

**14.1** This agreement is governed by the law in force in the State of Victoria, Australia, and the parties irrevocably submit to the non-exclusive jurisdiction of the courts of Victoria, Australia and courts of appeal from them for determining any dispute concerning this agreement.

**14.2** Ignite will not be liable to You for any failure in the performance of an obligation pursuant to these Terms and Conditions to the extent such failure or delay is caused by circumstances beyond its reasonable control, including, but not limited to failure of electronic or mechanical equipment or communication lines, telephones or other connection problems, computer viruses or other malicious software, unauthorized access, earthquake, fire, flood or other casualty, an act of God, a strike, lockout or other labour dispute, war, embargo, blockade, legal restriction, riot, insurrection or governmental action.

**14.3** If any of these Terms and Conditions are invalid or unenforceable, it will be struck out and the remaining terms will remain in force.

**14.4** If we do not act in relation to a breach by You of these Terms and Conditions, this does not waive our right to act with respect to subsequent or similar breaches.

**14.5** You may not assign or transfer your rights or benefits under these Terms and Conditions to any other person or entity without the prior written consent of Ignite.

**14.6** As per 12.1, all major notices and changes to this Agreement shall be in writing and shall be sent by email to the parties hereto at their respective email addresses.

**14.7** You have no right to use any trademark displayed on the Ignite website without the permission of the owner of that trademark.