

- (a) that the Network Service was not provided to the Customer or accessed through any other Network Service provided to the Customer; and
- (b) that neither the Customer, nor any person using any Network Service provided to the Customer, requested the Network Service or agreed to pay for it whether by words or conduct.

3.2 The charges payable are at the rates in the Telecom List of Charges unless agreed otherwise in writing.

3.3 Charges in respect of Network Service provided over any period are due on the first day of that period, or on demand (whichever is the sooner). Other charges are due on demand.

3.4 Where any amount due by the Customer to Telecom in respect of Network Service remains unpaid for one month or more following the date on which it is due then, without prejudice to Telecom's right of suspension of Network Service or termination of this Contract, the Customer shall be liable to pay to Telecom interest on that amount at the rate, if any, specified in the Telecom List of Charges.

3.5 The Customer shall continue to be responsible for any charges incurred between the time of suspension of Network Service or notice of relinquishment of Network Service or termination of this Contract is given and the actual discontinuance of Network Service.

3.6 This clause shall survive termination of this Contract.

4. OWNERSHIP

4.1 This Contract is for the provision of Network Service only, and passes no title or interest in anything used in the provision of Network Service.

4.2 The Customer has no title or interest in any Network Service Number or listing associated with any Network Service, and Telecom may in its discretion change any Network Service Number or listing assigned to a Customer.

5. DIRECTORY LISTING

5.1 Unless the Customer gives notice otherwise to Telecom and pays the appropriate charge (if any) specified in the Telecom List of Charges, Telecom may list the Customer's name, address and Network Service Number in any directory that Telecom may publish from time to time, and publish, disclose, use, sell or otherwise make available to any person those details in such manner as Telecom may determine.

6. TELECOM LIABILITY

6.1 Except as provided in clauses 6.2, 6.3 or 6.4 under no circumstances will Telecom, or Telecom Group or their employees, contractors or agents, be liable in contract, tort, or otherwise to compensate the Customer for any loss, injury, or damage arising directly or indirectly from:

- (a) any act, omission, error, default or delay of Telecom or Telecom Group or their employees, contractors or agents; or
- (b) any act, omission, error, default or delay in respect of the provision, installation, operation, servicing, use or termination of Network Service; or
- (c) the failure by Telecom or Telecom Group or their employees, contractors or agents to provide Network Service; or
- (d) any failure of Network Service; or
- (e) any failure of anything provided as part of, or in association with Network Service; or
- (f) the interception of any communication using Network Service—

whether in the case of Network Service it is the Network Service of the Customer, or of any other person, and whether the loss, injury or damage is the direct or indirect result of negligence or otherwise.

6.2 Notwithstanding clause 6.1, but subject to all other provisions in this clause 6, Telecom does not by this Contract exclude liability for physical damage to the property of the Customer occurring in the course of the provision, installation, operation, servicing or termination of Network Service that is a direct consequence of the negligence of Telecom or Telecom Group or their employees, contractors or agents.

6.3 Notwithstanding clause 6.1, where there is a total failure of the Customer's Network Service for any reason for more than 7 consecutive days after notice of the failure to Telecom, and the failure or continuation of the failure is not in any way directly or indirectly caused by the Customer or any person for whom the Customer is responsible, Telecom will, on request by the Customer made within 60 days after remedy of the failure, or within 60 days after suspension or relinquishment of the Customer's Network Service or termination of this Contract, (whichever is the sooner), refund to the Customer the rental in respect of Network Service for the period of the failure.

6.4 Notwithstanding clause 6.1, where there is a total failure of the Customer's Network Service for 7 consecutive days or less due to the negligence of Telecom and the failure or continuation of the failure is not in any way directly or indirectly caused by the Customer or any person for whom the Customer is responsible Telecom will, on request by the Customer made within 60 days after remedy of the failure, or within 60 days after suspension or relinquishment of the Customer's Network Service or termination of this Contract, (whichever is the sooner) refund to the Customer the rental in respect of the Customer's Network Service for the period of the failure; provided that Telecom may decline to refund any rental under this clause where the amount involved is less than twenty dollars (\$20).

6.5 Telecom may apply any refund payable under clause 6.3 or clause 6.4 as a credit towards other rental or charges payable by the Customer.

6.6 In any event, under no circumstances will Telecom, or Telecom Group or their employees, contractors or agents be liable to the Customer in contract, tort (including negligence) or otherwise for loss (whether direct or indirect) of profits, business or anticipated savings or for any indirect or consequential loss whatever notwithstanding that Telecom or Telecom Group or their employees, contractors or agents have been advised of the likelihood of such losses.

6.7 If for any reason Telecom and/or Telecom Group and/or their employees, contractors and/or agents are liable to the Customer in contract, tort, or otherwise, (and whether arising out of the provision of Network Service under this Contract or under any