

INTERGRID GROUP PTY LTD TERMS OF SERVICE

1) Definitions

- a) “Client Area” refers to the billing account created by or supplied to the Customer upon registration, accessible at <https://intergrid.com.au/billing/>.
- b) “Customer” refers to the person or organisation purchasing or receiving a product or service from Intergrid Group Pty Ltd.
- c) “Event of force majeure” means any circumstance not within the reasonable control of the Provider, such as natural disasters, political unrest or military conflicts, but only if and to the extent that:
 - i) such circumstance, despite the exercise of reasonable diligence, cannot be, or be caused to be, prevented, avoided or removed by such Provider, and
 - ii) such circumstance materially and adversely affects the ability of the Provider to perform its obligations under this Agreement, and such Provider has taken all reasonable precautions, due care and reasonable alternative measures in order to avoid the effect of such event on the Provider’s ability to perform its obligations under this Agreement and to mitigate the consequences thereof.
- d) “Provider”, “Intergrid” and “Intergrid Group” refers to Intergrid Group Pty Ltd with ACN 613 707 690.
- e) “Service” or “Services” refers to the products or services ordered from Intergrid including but not limited to web hosting, dedicated servers, cloud and virtual servers, managed services, colocation, IP transit and domain names. The nature of these Services is identified via the Customer’s Client Area.

2) Interpretation

- a) In these terms, unless the context otherwise requires:
 - i) a reference to writing includes email and other communication established through the Provider’s website (if any);
 - ii) the singular includes the plural and vice versa;
 - iii) a reference to a clause or paragraph is a reference to a clause or paragraph of these terms;
 - iv) a reference to a party to these terms or any other document or arrangement includes that party’s executors, administrators, successors and permitted assigns;
 - v) where an expression is defined, another part of speech or grammatical form of that expression has a corresponding meaning; and
 - vi) headings are for ease of reference only and do not affect the meaning or interpretation of these terms of trade.

3) Conduct constitutes acceptance

- a) The Customer signifies acceptance of the Provider’s terms and policies in their entirety, including these Terms of Services and associated Acceptable Use Policy, through the conduct of placing an order for or requesting a Service.

4) Limitation of Liability

- a) The Customer expressly agrees that use of the Services is at the Customer's risk. To the full extent allowed by law, the Provider's liability for breach of any term implied into these terms by any law is excluded.
- b) Except for its Service Level Agreement(s), the Provider gives no warranty in relation to the Services provided or supplied. Under no other circumstances is the Provider or any of its suppliers liable or responsible in any way to the Customer or any other person for any loss, damages, costs, expenses or other claims (including consequential damages and loss of profits or loss of revenues) as a result, direct or indirect of any defect, deficiency or discrepancy in the Services. This includes their form, content and timeliness of deliveries, failure of performance, error, omission, defect, including, without limitation, for and in relation to any of the following:
 - i) any Services supplied to the Customer;
 - ii) any delay in supply of the Services; or
 - iii) any failure to supply the Services.
- c) Any advice, recommendation, information, assistance or service given by the Provider in relation to Services or both, is given in good faith and is believed to be accurate, appropriate and reliable at the time it is given. It is provided without any warranty or accuracy, appropriateness or reliability. The Provider does not accept any liability or responsibility for any loss suffered as a result of the Customer's reliance on such advice, recommendation, information, assistance or service.
- d) To the fullest extent permissible at law, the Provider is not liable for any direct, indirect, punitive, incidental, special, consequential damages or any damages whatsoever including, without limitation, damages for loss of use, data or profits, arising out of or in any way connected with the provision of or failure to provide Services, or otherwise arising out of the provision of the Services, whether based on terms, negligence, strict liability or otherwise, even if the Provider has been advised of the possibility of damages.
- e) In the event that liability is accepted by the Provider, it is capped to the quantum of one month of fees paid by the Customer with respect to the Service.
- f) The Provider will provide reasonable, best-effort support to the Customer for issues relating directly to their Service, including billing, accounts and hosting environment assistance. However, the Provider accepts no responsibility for the provision of support for third party software or applications. The Provider shall not be accountable or responsible for the maintenance, installation or compatibility of such software unless otherwise agreed in writing through executed contract.

5) Fees, invoicing & accounts

- a) The Provider may issue invoices up to and including 14 days prior to the due date.
- b) Any upgrades will be charged at a pro-rata rate, based upon the difference in price between the current Service level and the future Service level, and the number of days remaining on the Service billing cycle.
- c) No refunds shall be provided for downgrades, unless specified otherwise in writing by the Provider.
- d) The Customer agrees that:

- i) Invoices associated with new orders, or additional post-paid service fees (such as data overages) are due immediately upon issuance of the invoice; and
 - ii) Service renewal invoices are due 14 days from the invoice issue date.
- e) The Customer acknowledges that, where an invoice for a Service is unpaid on its due date:
 - i) After three (3) days the Provider may, at its sole discretion, suspend the Service until the balance owing has been received in full.
 - ii) After fourteen (14) days, the Provider may, at its sole discretion, may commence termination procedures for the Service, including but not limited to deleting the Customer's data.
- f) The Customer agrees that any and all due invoices must be paid prior to the provision of new or additional services.
- g) The Customer agrees that the Provider may, at its sole discretion and after advising the Customer, seek to recover debt through external collection or credit reporting agencies.
- h) The Customer agrees that the Provider may, at its sole discretion, verify the Customer's particulars and credit worthiness against third party databases. The Customer further accepts that the Provider may refuse to accept an order if the information received from such third party databases does not meet the Provider's internal commercial risk policies.
- i) The Customer agrees that the Provider may store its credit card information for the purposes of direct debit and billing. In such cases, the Provider agrees to treat such information as highly confidential and maintain security compliance to reasonable standards.
- j) The Provider may add, remove and alter payment methods from time to time without notice.

6) Cancellations

- a) All services will be billed on a recurring basis unless and until a cancellation request is submitted.
- b) The Customer must submit cancellation requests via the Client Area of the Provider's website. For security purposes, cancellation requests will not be accepted via other communication methods.
- c) Certain services may be subject to a minimum subscription period. Where a minimum subscription period applies, the Customer agrees to retain and pay the charges associated with the Services at least until the minimum subscription period has lapsed.
- d) Where Services are subject to a minimum subscription period, the Provider must clearly indicate to the Customer:
 - i) the duration of the minimum subscription period, referred to as the 'Fixed term';
 - ii) the total minimum fees for the minimum subscription period, referred to as the 'Fixed term charge'; and
 - iii) the date on which the minimum subscription period commences, referred to as the 'Term start date'.

- e) Where the Customer cancels services on a date prior to the lapse of a minimum subscription period, the Customer agrees to pay the balance of fees owed for the specified services for the remaining minimum subscription period, in aggregate within 30 days of demand by the Provider.
- f) The Customer agrees that for services not subject to a minimum subscription period, or where a minimum subscription period has lapsed, cancellation requests must be submitted to the Provider with the following minimum notice period:
 - i) Dedicated or baremetal servers - 30 days notice
 - ii) Managed services - 30 days notice
 - iii) Colocation services – 30 days notice
 - iv) IP transit services – 30 days notice
 - v) All other services unless contractually specified – 14 days notice
- g) Should insufficient notice of cancellation be provided, either the following billing cycle shall be charged, or one additional month of service shall be charged, whichever is smaller.
- h) The Customer agrees to pay any overdue and/or outstanding invoices or fees upon cancellation.
- i) The Customer acknowledges that unless otherwise agreed in writing by the Provider, refunds will not be offered for cancellations.

7) Availability of Services

- a) The Provider will endeavour to maintain availability of Services, however the Provider's liability is limited to the extent outlined in the applicable Service Level Agreement for the Service (if any).
- b) Scheduled maintenance may be performed as required by the Provider. The Provider will endeavour to schedule such maintenance for a period which will least impact the Customer. For outages predicted to surpass thirty (30) minutes in length, the Provider will advise the customer at least twenty-four (24) hours in advance. For outages predicted to surpass sixty (60) minutes in length, the Provider will advise the customer at least seven (7) days in advance.
- c) Where necessary, the Provider may perform emergency unscheduled maintenance. In situations where maintenance will surpass thirty (30) minutes in length, the Provider will publish advisory notices through any and all means necessary, including but not limited to the status page (status.intergrid.com.au) and emails.

8) Force majeure

- a) If circumstances beyond the Provider's control prevent or hinder its provision of the Services, the Provider is free from any obligation to provide the Services while those circumstances continue.
- b) Circumstances beyond the Provider's control include, but are not limited to, unavailability of materials or components, strikes, lockouts, riots, natural disasters, fire, war, acts of God, Government decrees, proclamations or orders, and transport difficulties.

9) Indemnity

- a) The Customer indemnifies and keeps indemnified the Provider, its servants and agents in respect of any claim or demand made or action commenced by any person (including, but not limited to, the Customer) against the Provider or, for which the Provider is liable, in connection with any loss arising from or incidental to the provision of Services or the subject matter of these terms.
- b) This includes, but is not limited to, any legal costs incurred by the Provider in relation to meeting any claim or demand of any party legal costs for which the Provider is liable in connection with any such claim or demand. This provision remains in force after the termination of these terms.

10) Acceptable Use

- a) The Provider may, at its sole discretion, restrict the use of Services for certain purposes. To that end, the Customer agrees to, and shall abide by at all times, the Provider's Acceptable Use Policy.

11) Data Integrity

- a) The Customer will not hold the Provider liable for corrupt, out of date or incomplete data associated with the Service. It is the sole responsibility of the Customer to maintain regular, audited backups of data.
- b) Following the cancellation of a service, the Provider surrenders any responsibility for the storage of the Customer's data.

12) Suspension and Termination of Services

- a) The Provider reserves the right to suspend or terminate a Service if the Customer defaults upon its obligations under these terms. Each of the following occurrences constitutes an event of default:
 - i) the Customer breaches or is alleged to have breached these terms for any reason (including, but not limited to, defaulting on any payment due under these terms) and fails to remedy that breach within 14 days of being given notice by the Provider to do so;
 - ii) the Customer, being a natural person, commits an act of bankruptcy;
 - iii) the Customer, being a corporation, is subject to:
 - (1) a petition being presented, an order being made or a meeting being called to consider a resolution for the Customer to be wound up, deregistered or dissolved;
 - (2) a receiver, receiver and manager or an administrator under Part 5.3A of the Corporations Act 2001 (or the equivalent local law in the Customer's jurisdiction) being appointed to all or any part of the Customer's property and undertaking;
 - (3) the entering of a scheme of arrangement (other than for the purpose of restructuring); and
 - (4) any assignment for the benefit of creditors;
 - iv) the Customer purports to assign its rights under these terms without the Provider's prior written consent; or

- v) the Customer ceases or threatens to cease conduct of its business in the normal manner.
- b) Where an event of default occurs, except where payment in full has been received by the Provider, the Provider may:
 - i) terminate or suspend any Services or credit arrangements (if any) with the Customer;
 - ii) refuse to provide further Services;
 - iii) retain (where applicable) all money paid by the Customer on account of Services or otherwise.
- c) In addition to any action permitted to be taken by the Provider in the event of a default, on the occurrence of an event of default all invoices will become immediately due and payable.
- d) In the event of a suspension or termination, the Provider is not liable or accountable for lost data.

13) Agency and assignment

- a) The Customer agrees that the Provider may at any time appoint or engage an agent to perform an obligation of the Provider arising out of or pursuant to these terms.
- b) The Provider has the right to assign and transfer to any person or body corporate all or any of its title, estate, interest, benefit, rights, duties and obligations arising in, under or from these terms and any orders provided that the assignee agrees to assume any duties and obligations of the Provider owed to the Customer under these terms.
- c) The Customer is not to assign, or purport to assign, any of its obligations or rights under these terms without the prior written consent of the Provider.

14) General

- a) The Provider may alter this document outlining the Terms of Service at any time. Changes will be made available via the Intergrid website. Changes made shall become effective immediately once revised Terms are published.
- b) These terms are governed by the laws of the state of New South Wales. The Customer and the Provider irrevocably submit to the exclusive jurisdiction of the courts of New South Wales.
- c) These Terms of Service and Acceptable Use Policy, and any service orders and written variations agreed to in writing by the Provider represent the whole agreement between the parties relating to the subject matter of these terms.
- d) In agreeing to these terms, the Customer has not relied on any warranty, representation or statement, whether oral or written, made by the Provider or any of its employees or agents relating to or in connection with the subject matter of these terms.
- e) If any provision of these terms at any time is or becomes void, voidable or unenforceable, the remaining provisions will continue to have full force and effect.
- f) A party's failure or delay to exercise a power or right does not operate as a waiver of that power or right.