



TERMS AND CONDITIONS

A: UNIT 1/10 PRINCIPAL LINK, MALAGA, 6090, WA

T: 1300 300 056 E: INFO@JAZI.NET

ABN: 80164840859 ACN: 164840859

Definitions

"ABA" means the Australian Broadcasting Authority.

"Account Limitations" means the configured limits on internet access for a Product, as specified in the Application Form and the description and features of the Product posted at the URL: <http://www.jazi.net/>

"Account" means the account of an JaziNET customer, which is created once that customer's application to purchase a Product and use the Services is accepted by JaziNET.

"Additional Charge" means JaziNET's charge, including GST, for the provision of internet access above that Product's Account Limitations.

"Application Form" means the JaziNET application form available at the URL <http://www.jazi.net/>

"AUP" means JaziNET's Acceptable Use Policy which is posted at the URL <http://www.jazi.net/>

"Commencement Date" means the date upon which JaziNET commences providing the Services to you.

"General Conditions" means these general terms and conditions.

"Paid Period" means the period of provision of the Services for which you have already paid at any point in time.

"Product" means one of JaziNET's range of dial-up internet access products, broadband, ADSL or web site hosting service, the descriptions and features of each of which is posted at the URL: <http://www.jazi.net/>

"Product Charge" means JaziNET's charge, including GST, for providing the Services to you in accordance with the Product you have purchased, including any Special Features. The Product Charge excludes any Additional Payment or the telephone charges which are payable by you to your telecommunications carrier (i.e. Telstra).

"Services" means dial-up internet access via the JaziNET network and related services such as web site hosting.

"Specific Conditions" are specific terms and conditions which govern the use of the Services by JaziNET customers who have purchased particular products (i.e. ADSL). Each set of Specific Conditions specifies the Product to which it relates and is posted at the URL: <http://www.jazi.net/>

"Special Features" means non-standard, additional features of a Product which JaziNET agrees to provide to you.

Introduction

[ADSL Terms and Conditions](#)

[Web Hosting Terms and Conditions](#)

1. Your use of each of the Services is subject to the General Conditions.
2. Each of the Products listed below are also subject to separate and additional Specific Conditions. Those Products are subject to both the General Conditions and the Specific Conditions and, in the case of any inconsistency, the Specific Conditions prevail.
3. The General Conditions and the Specific Conditions are subject to change without notice. Any such changes apply as soon as they are posted at this URL: <http://www.jazi.net/>
4. Although JaziNET will endeavour to notify you of any changes to the General Conditions or any of the Specific Conditions 30 days in advance, we cannot guarantee that you will receive that notice. It is your responsibility to check this URL from time to time to ensure that you are aware of the current General Conditions and the current Specific Conditions.

Applying for the Services

5. You can apply to purchase a Product and use the Services by completing and submitting the Application Form or the online Secure Payment Form which is available at the URL: <http://www.jazi.net/>



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6. Each Product is subject to its Account Limitations, as specified in the Application Form and at the URL: <http://www.jazi.net/>

7. If JaziNET accepts your application we will provide you with an Account and the Account details. You will then be able to use the Services.

8. By submitting to JaziNET the Application Form you declare that you are 18 years of age or older.

9. If you wish to change to a different Product you must notify JaziNET in writing prior to the expiry of the Paid Period.

Provision of the Services

10. By:

- a) accepting your completed Application Form;
- b) accepting your payment of the Product Charge;

and

c) providing you with an Account, JaziNET agrees to provide the Services to you for the Paid Period in accordance with the Product and any Special Features you have chosen.

11. JaziNET will provide the Services to you at all times subject to downtime due to:

- a) periodic maintenance by JaziNET; or
- b) circumstances beyond JaziNET's control.

12. In the event of downtime, JaziNET will use its best endeavours to restore the Services as soon as practicable.

13. The technical means by which JaziNET provides the Services to you is entirely at JaziNET's discretion.

14. JaziNET may also provide advice, information and software to you but provision of those services is in good faith and is not a condition of this agreement.

Use of the Services

15. When using the Services, you must comply with:

- a) the General Conditions;
- b) any Special Conditions which apply to your Product;

c) the AUP; and

d) any other reasonable directions and instructions which JaziNET gives you.

16. You are responsible for the use of your Account by any person. You must ensure that anyone who uses your Account also complies with the conditions and instructions referred to in General Condition 15.

17. You are personally liable for payment of the Product Charge and any Additional Charge from the Commencement Date, regardless of whether or not you authorised the use of your Account giving rise to those charges.

18. You are responsible for backing up and storing your data.

19. You must not re-sell, or attempt to re-sell, the Services or transfer your Account to another person without JaziNET's prior written consent.

20. The Police and government authorities, including the ABA, are able to direct JaziNET to remove certain information and material from our network or prevent JaziNET's customers from accessing that information or material. JaziNET may take any action it deems necessary to comply with any direction by the Police or a government authority including, but not limited to:

- a) removing any information or material from our network;
- b) removing a website, or part of a website, from our network;
- c) terminating or suspending an Account; or
- d) restricting access to certain information or material on our network.

Charges and Payment

21. You must pay:

- a) the Product Charge and any Additional Charge from the Commencement Date; and
- b) any installation charges for equipment installed to enable JaziNET to provide the Services to you.



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22. JaziNET will send you a tax invoice in advance for the Product Charge, usually on or around the 1st of the month. You must pay the Product Charge for each month by the 14th day of the month.

23. Failure to pay by the due date may lead to suspension of services, and a late payment fee and/or reconnection fees may apply. You may also be required to pay a bond before your service is unsuspended or reconnected.

24. JaziNET will send you a tax invoice for any Additional Charge. You must pay the Additional Charge for each month by the due date as shown on the invoice.

25. JaziNET may round off the Product Charge and the Additional Charge payable to the nearest whole cent (0.5 cents will be rounded up).

26. JaziNET's records are sufficient evidence of the amount of Product Charge and Additional Charge payable by you unless they are shown to be incorrect.

27. Notwithstanding any law to the contrary, any legal proceedings brought by you against JaziNET on the basis that:

a) the amount of Product Charge and/or Additional Charge charged by JaziNET is allegedly incorrect, must be brought within 12 months of the date of the relevant tax invoice;

b) you should have received a refund of an alleged overpayment of Product Charge and/or Additional Charge charged by JaziNET, must be brought within 12 months of the date of the alleged overpayment.

28. You may pay the Product Charge and any Additional Charge by credit card, or direct debit from your nominated bank account. JaziNET reserves the right to use a third party for processing direct debit and credit card payments.

29. If your bank or credit card issuer fails to honour your payment to JaziNET, JaziNET will notify you, and a \$33 dishonour fee will apply. You must pay the

dishonoured amount, in addition to the dishonour fee to JaziNET by cash or other means within 3 days.

30. If you have nominated to pay the Product Charge and any Additional Charge by credit card or direct debit JaziNET will debit your nominated bank account or credit card account on or before the due date unless:

a) you have terminated your Account pursuant to General Condition 34 or 35; or

b) JaziNET has terminated your Account pursuant to General Condition 36 or 39.

31. The Product Charge and Additional Charge for your Product is posted at the URL: <http://www.jazi.net/> JaziNET reserves the right to change the pricing structure of any of the Products at any time.

32. JaziNET will notify you in writing of any change to the Product Charge or the Additional Charge for your Product a reasonable time before those changes come into effect.

33. Any changes to a Product Charge or an Additional Charge apply as soon as they are posted at the URL: <http://www.jazi.net/> If you are an existing JaziNET customer the increased Product Charge or Additional Charge applies upon expiry of the Paid Period.

Suspension and Termination

34. You may close your Account by giving 30 days prior written notice to JaziNET. JaziNET will refund on a pro-rata basis the Product Charge which you have paid, less an administration fee.

35. In the event that your use of the Services is substantially limited by any change of the General Conditions, the Special Conditions or the features of your Product, you may close your Account by giving 7 days written notice to JaziNET. JaziNET will refund on a pro-rata basis the Product Charge which you have paid, less an administration fee.

36. JaziNET may terminate your Account by giving you 30 days prior written notice. JaziNET will refund on a



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pro-rata basis the Product Charge which you have paid.

37. JaziNET may suspend provision of the Services to you with reasonable, prior notice for periodic maintenance, whether by JaziNET or by third parties such as Telstra.

38. JaziNET may suspend provision of the Services to you immediately and without prior notice for any reason including:

- a) you fail to comply with the General Conditions, or any Special Conditions which apply to your Product;
- b) you fail to comply with the AUP;
- c) you fail to comply with any other instructions which JaziNET gives you;
- d) you transfer your Account to another person without JaziNET's prior written consent;
- e) an emergency;
- f) an event beyond JaziNET's control ; or
- g) to comply with a direction from the Police, ABA or any other government authority.

39. JaziNET will immediately notify you in writing that it has suspended provision of the Services.

40. JaziNET may terminate your Account immediately and without prior notice for the following reasons:

- a) you fail to pay the Product Charge or any Additional Charge in accordance with the General Conditions;
- b) you re-sell, or attempt to re-sell, the Services without prior written consent from JaziNET;
- c) you give a person another JaziNET customer's Account and password details;
- d) you seriously or persistently breach the AUP;
- e) you fail to remedy any breach of the General Conditions, or any Special Conditions which apply to your Product, not referred to in sub-conditions (a) to (d) above, within 7 days after having being requested by JaziNET to do so;
- f) you fail to comply with any reasonable instruction which JaziNET gives you, within 7 days after having been requested by JaziNET to do so; or

g) to comply with a direction from the Police, ABA or any other government authority.

41. JaziNET will immediately notify you in writing that it has terminated your Account.

42. If JaziNET terminates your Account pursuant to General Condition 39 it has the right to:

- a) retain any Product Charge or Additional Charge paid by you to JaziNET; and
- b) be discharged from any further obligations under the General Conditions.

Indemnity

43. You acknowledge that JaziNET has no control over:

- a) the availability, content and accuracy of information and material on the Internet; or
- b) material or content viewed, downloaded or stored by any person using your Account.

44. You agree to indemnify and hold harmless JaziNET from and against all actions, suits, claims, demands, losses, damages and liabilities whatsoever in any way arising out of:

- a) the availability and content of information and material on the Internet;
- b) your reliance upon advice, information or software provided by JaziNET;
- c) your failure to backup and store your data;
- d) material or content viewed, downloaded, stored or transmitted by any person using your Account;
- e) our termination or suspension of the Services due to:-

i - the failure of any person who uses your Account to use the Services in accordance with the General Conditions, the Specific Conditions, the AUP and any other instructions which JaziNET gives you; or

ii - your failure to pay the Product Charge or the Additional Charge in accordance with the General Conditions;

f) disruption of the provision of the Services to your Account caused by:



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i - periodic maintenance by JaziNET;

ii - an act or event beyond JaziNET's control including, but not limited to, catastrophic incidents, riots, malicious acts, theft or attempted theft, lightning, explosion, fire, impact, power failure, flood or escaping water, earthquake, electrical surges or fusion, emergency, curfew or industrial disputes, act or omission of any person for whom JaziNET is not responsible for or any causes whether similar or otherwise outside JaziNET's control; or

iii - acts or events within your control; or

g) the inability of you or any other user to use your Account to interact with any other service provider through the Internet, other networks or users which comprise the Internet or the informational or computing resources available through the Internet, provided that that inability is due to:

i - an act or omission of any person for whom JaziNET is not responsible; or

ii - an act or event beyond JaziNET's control.

Warranties and Liability

45. Except for any conditions or warranties that JaziNET is required to give by law, JaziNET makes no statement, warranty or promise about the quality or suitability of the Services.

46. The only conditions and warranties which are binding on JaziNET in relation to its provision of the Services are those required by the Trade Practices Act 1974 (Cth) (as amended) and the Fair Trading Act 1987 (WA) (as amended). In the event of a breach of a condition or warranty implied by the Trade Practices Act or the Fair Trading Act JaziNET's liability for that breach is limited, at JaziNET's option, to:

a) for goods, such as software provided to you by JaziNET, replacing or repairing those goods or paying the cost of repair or replacement;

b) for the Services, providing the Services again or paying the costs of having the Services provided again; or

c) the Product Charges and the Additional Charges paid by you to JaziNET.

Waiver

47. Any decision by JaziNET not to suspend or terminate your Account, notwithstanding that has the power to do so under the General Conditions, does not operate as a waiver.

48. A waiver is not valid or binding on JaziNET unless it is made in writing.

Privacy

49. JaziNET is bound by the Privacy Act 1988 (Cth) (as amended) and will protect your private information in accordance with that Act.

50. You provide and JaziNET collects private information including your name, date of birth, gender, current and previous addresses, telephone/mobile phone number, email address, bank account or credit card details, occupation, driver's licence number and your username or password. JaziNET may also collect details of your personal interests.

51. Whenever you use the Services to access a website JaziNET records the time, date and URL of the request.

52. In accordance with industry standards, JaziNET uses "cookies", which is information that a website transfers to your hard drive. Most Internet browsers are pre-set to accept cookies although, if you do not wish to receive cookies, you can adjust the preferences on your browser to disable cookies or to warn you when cookies are being used.

53. You authorise JaziNET to:

a) use your private information to:

i - identify you;

ii - provide you with the Services, including charging and billing;



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- iii - obtain and examine your credit history and credit worthiness;
- iv - monitor your use of the Services;
- v - consider any application by you to use the Services;
- vi - restrict your use of the Services;
- vii - assist our maintenance, research and development; or
- viii - promote our Products to you;

b) provide your private information to any subsidiary of, company related to, company participating in a joint venture with, supplier of, agent of, or contractor of JaziNET for the purposes of:

- i - account management and debt recovery;
- ii - business planning;
- iii - research and development; or
- iv - marketing; or

c) disclose your private information where JaziNET is required or authorised by law to do so.

54. You can access and correct your private information by requesting in writing to do so.

55. You acknowledge that:

- a) you are responsible for the security of and access to your computer;
- b) you must close your browser when you have finished using the Services. If you fail to do so another person may access your private information and correspondence;
- c) if you disclose your private information over the Internet (for example, in a chatroom) that information may be collected and used by others; and
- d) you are responsible for protecting your username and password.

Set Off

56. You agree to pay the Product Charge and any Additional Charge payable by you to JaziNET without any set off, counter claim or deduction.

57. JaziNET may set off any amount payable by it to you against any amount payable by you to JaziNET.

Entire Terms and Conditions

58. Subject to General Condition 57, the General Conditions, and any Specific Conditions which apply to your Product, constitute the entire terms and conditions governing your use of the Services and supersede all prior agreements, understandings or negotiations.

Notice

59. A notice under the General Conditions or any Specific Conditions which apply to your Product must be a written communiqué given by mail, facsimile transmission, electronic mail or delivered.

60. A notice must be given, for the purposes of the General Conditions or any Specific Conditions:

- a) by delivering the notice to the addressee personally;
- b) by leaving the notice at the addressee's usual or last known address, or if he is in business as a principal, at his usual or last known place of business;
- c) by posting the notice to the addressee at his usual or last known address or, if he is in business as a principal, at his usual or last known place of business;
- d) if the addressee is a corporation, by leaving the notice at, or by posting it to, the corporation at its registered office or principal place of business in Western Australia;
- e) by sending the notice by electronic mail to the addressee at his usual or last known email address; or
- f) by sending the notice by facsimile to the addressee at his usual or last known facsimile number.

61. A notice is deemed to have been given, for the purposes of the General Conditions or any Specific Conditions:

- a) in the case of a posted letter, when, by the ordinary course of post, it would have been delivered;
- b) in the case of electronic mail, on receipt of a successful delivery confirmation by the machine from which the e-mail was sent; and
- c) in the case of a facsimile, on production of a



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transmission report by the machine from which the facsimile was sent confirming that the facsimile was transmitted successfully.

Variation

62. No variation of, or addition to, consensual cancellation or novation of the General Conditions or any Specific Conditions which apply to your Product, shall be of any force or effect unless and until reduced to writing and signed by and on behalf of yourself and JaziNET.

Governing Law and Jurisdiction

63. The General Conditions and any Specific Conditions which apply to your Product shall be governed by, construed and take effect in accordance with the laws of Western Australia.

64. JaziNET and yourself submit to the jurisdiction of the Courts of Western Australia and any Courts which may hear appeals from those Courts in respect of any proceedings in connection with the General Conditions and the Specific Conditions.

Survival

65. General Conditions 27, 34, 42, 53, 54 and 55 survive the termination of the Services.