

## Cloud PBX - Service Specific Terms and Conditions

The MyRepublic Cloud PBX (“**Cloud PBX**” or “**Service**” or “**Hosted PBX**”) is a service offering within New Zealand consisting of MyRepublic-provided software and network services which includes: (i) the provision of Hosted PBX features & capabilities at Customer-specified service location(s) (“**Premises**”), (ii) the furnishing of voice access, Local, National and International calling services, (iii) the Service and Support. It may also include (iv) telephone handset(s) if selected by the customer. Services are provided, in part, via a cloud PBX that interoperates with pre-approved IP telephone stations and allows access to MyRepublic’s IP VPN network.

The Cloud PBX Specific Terms and Conditions (“**Cloud PBX Service Terms**”) set out the basis in which MyRepublic will provide the Service to you. These Cloud PBX Service Terms shall be read in conjunction with the MyRepublic Business General Terms and Conditions (“**Business General Terms**”). The Cloud PBX Service Terms, the Business General Terms and the order form signed between MyRepublic and Customer shall be referred to as the “**Agreement**”. Customer shall be bound by and shall fully observe and comply with the terms and conditions of the Agreement.

### 1. Definition and Interpretation

1.1. In these Cloud PBX Service Terms, words and expressions shall have the following meaning:

“**Business Hours**” refer to Monday-Friday (excluding public holidays), from 9am to 6pm in New Zealand;

“**Customer**” means the company, business or organisation that applies for and/or acquires services from MyRepublic; and “you” and “your” have corresponding meanings;

“**End User**” means the individual using the Service, e.g. an employee of the Customer;

“**Equipment**” means any telecommunication equipment owned by either MyRepublic, or MyRepublic supplies that is used to provide the Service to you, and excludes any telecommunication equipment that you have purchased from MyRepublic and have fully paid for, or is otherwise supplied by yourself to access the Service;

“**Fair Usage Policy**” refers to the policy set out in Clause 21;

“**Hosted PBX**” refers to our Private Branch Exchange (PBX) telephone network we deliver as a hosted service;

“**Installation Address**” refers to the address of the Premises at which we agree to provide the Service to you. The address must be registered and have a correct, existing and valid unit number within the Premises, and have an internet connection to enable our Service;

“**International**” refers to Services (including calls) to international locations. The numbers will begin with 00 or +;

“**ISP**” refers to internet service provider, such as MyRepublic, that provides a fibre internet connectivity service to you;

“**Local**” refers to Services (including calls) to numbers within the local calling area.

“**MyRepublic**” means MyRepublic Limited (NZBN: 9429041029671), and “we”, “us” and “our” have corresponding meanings;

“**National**” refers to Services (including calls) to other regions in New Zealand;

“**Premises**” means the property bearing the Installation Address which we provide the Services and is able to receive reliable fibre broadband connection;

“**Service and Support**” refers to fault isolation and diagnosis, hardware replacement for defective hardware, and software updates for defective software.

- 1.2. For the purposes of interpretation and construction of the agreement:
  - 1.2.1. words importing the singular or plural include the plural and singular respectively
  - 1.2.2. headings are inserted for convenience only and do not affect the interpretation of this agreement;
  - 1.2.3. words "include", "includes" and "including" shall be deemed to be followed by the phrase "without limitation"; and
  - 1.2.4. any reference to any statute or regulation is a reference to that statute or regulation as amended or replaced.

## 2. **Service Description**

- 2.1. We will supply the Services to you in accordance with the details set out in the order form, until the Services are terminated in accordance with the provisions of this Agreement.
- 2.2. Cloud PBX is offered only to Premises in New Zealand with a stable internet connection .
- 2.3. Our scope of includes configuring the Equipment, and testing and activating the Service, providing support for the Service and Equipment. Pursuant to compliance with Section 9.3 below, Customer may provide and utilise some of its own equipment .
- 2.4. The cloud PBX is furnished as part of the Service providing basic voice service calling features with each seat licence ordered. MyRepublic will evaluate, design, provide, install, maintain and manage Service based on a configuration proposed to Customer ("**Hosted PBX Service Delivery**").
- 2.5. Customer acknowledges and agrees that MyRepublic's provisioning of Hosted PBX Service is predicated on the accuracy and timeliness of Customer's answers to Cloud PBX Service questionnaires. MyRepublic will not be liable for any installation delays or any reduction in or failure of the Hosted PBX Service as a result of any inaccuracy in Customer's answers to Service questionnaires, or any material changes to Customer's environment that would render such information inaccurate.

## 3. **Fair Usage Policy**

- 3.1. MyRepublic reserves the right either to discontinue furnishing Service or to move Customer to an alternative usage plan or product if Customer's usage pattern is outside the scope of the **Fair Usage Policy** or if the Service is being used by Customer for any prohibited application. Customer shall be responsible for any applicable early termination charges if Service is terminated as a result of a violation to the stated Fair Usage Policy.

## 4. **Early Termination Fees**

- 4.1. Early Termination Fee outlined applies when the service(s) are terminated before the end of the minimum contract term. The Early Termination Fee will be prorated by the number of months remaining in the minimum contract term period.  
For example: If a customer is on a 12 month contract with early termination fees of \$500, and they choose to terminate in month 6, the early termination fee is calculated as \$500 divided by 12 months x 6 months remaining. This means that the Early Termination Fee will be \$250.

## **5. Pricing, Billing and Charges**

- 5.1. MyRepublic reserves the right to modify prices after the initial term. MyRepublic will provide Customer with ten (10) working days' notice of any price increases. Price reductions will be effective immediately without any written notification. If Customer elects not to accept a price increase, it may notify MyRepublic in writing of its intent to terminate the Service within ten (10) working days of receipt of the notice of the rate increase. After MyRepublic receives such notice, it will terminate Customer's Service within sixty (60) days of receipt without any termination penalty or liabilities by the parties. During that termination period, the original price shall apply. Customer's use of the Service after the expiry of the ten (10) working day notice period by MyRepublic will constitute its acceptance of the price increase and MyRepublic will charge and invoice the Customer the revised price accordingly.
- 5.2. Notwithstanding anything to the contrary in the Agreement, billing for the Service will begin on the commencement date of Service activation by MyRepublic, as agreed upon between MyRepublic and Customer at the time of entering into the Agreement. Should there be any delays to Service activation due to the Customer, MyRepublic reserves the right to commence billing on the previously agreed upon date.

## **6. Service Requirements and Restrictions**

- 6.1. To receive Hosted PBX Service, Customer must provide the following:
  - 6.1.1. Customer's acknowledged and approved list of network services with all the required details including, but not limited to, a complete and correct inventory of Customer's telephone numbers to be ported to MyRepublic (as required).
  - 6.1.2. Customers porting telephone numbers from previous Service Providers are required to provide a Customer Service Record from their previous provider that details the following:
    - a. Customer Account Name
    - b. Customer Account Address
    - c. Customer Account Number
    - d. List of telephone numbers porting to Cloud PBX
  - 6.1.3. All required supporting documents with Customer-acknowledged network order.
  - 6.1.4. Customer contact information that includes telephone number and valid email address.
  - 6.1.5. VoIP-ready Local Area Network ("LAN") meeting the Cloud PBX VoIP readiness requirements to provision, service, and support Hosted PBX Services.

The Cloud PBX VoIP readiness requirements are:

- a. A Local Area Network (LAN) running the Internet Protocol (IP) technology with Ethernet line interfaces.
- b. Client-side LAN support for Dynamic Host Configuration Protocol (DHCP), Domain Name System (DNS), Hypertext transfer Protocol (HTTP and HTTPS) and 802.1q Virtual LAN (VLAN) tagging.

- c. LAN switches with Ethernet line interfaces with sufficient available ports to connect all Session Initiation Protocol (SIP) endpoints (phone sets) provided as part of the Hosted PBX service.
  - d. Availability of a consistent QoS policy across the LAN through which the Hosted PBX voice traffic will receive the highest level of prioritisation.
  - e. Availability of IP routing services that permit network endpoints to have concurrent access to the Cloud PBX network service and the public Internet.
  - f. DHCP server capable of providing an IP address to SIP devices.
  - g. DNS server or DNS relay functionality that allows resolution of URLs used by SIP devices to communicate with external service platforms.
  - h. Customer firewall configured to allow the following services:
    - i. HTTP and HTTPS traffic to allow SIP devices to communicate with external configuration servers.
    - ii. SIP and Real Time Transport Protocol (RTP) traffic to allow SIP devices to place and receive calls.
- 6.1.6. A single point of contact to work with MyRepublic and the technical installation team on all project activities and approve all job change orders. If Customer's project includes more than one installation location, a local contact must be provided for each location.
- 6.1.7. Customer may co-develop the project plan with the Cloud PBX Voice Engineer to include mutually agreed upon project schedule, installation / milestone dates.
- 6.1.8. It is Customer's responsibility to provide properly terminated and labelled Category 5 or better station level cabling for each Cloud PBX provided SIP endpoint. Customer will ensure that cabling has been terminated on patch panels and that terminations are labelled to designate each patch panel port with the correct corresponding work station communications outlet.
- 6.1.9. Customer must provide a port on its LAN / WAN through which the Cloud PBX provided QoS equipment will have Internet access and remote access capabilities. Customer must not touch or move the QoS equipment in any manner without the permission or direction of MyRepublic.
- 6.1.10. Customer LAN must be sized to allow maximum amount of required data bandwidth plus the total number of simultaneous voice calls required by the Hosted PBX users.
- 6.1.11. Customer will ensure that its LAN / WAN is configured according to VoIP specifications prior to scheduled Hosted PBX service activation.
- 6.1.12. During scheduled Hosted PBX service activation activity, Customer will provide an IT administrator with requisite access to all LAN / WAN hardware to make any configuration changes in coordination with Cloud PBX.
- 6.1.13. Customer is solely responsible for the performance and (re)configuration of the user desktop computers and / or corporate applications following the installation of any MyRepublic provided IP telephone sets or softphone applications.
- 6.1.14. Customer will provide a detailed floor plan, labelled to identify the name, extension number and location for every telephone and analog device that needs to be installed, by the deadline specified in the Hosted PBX project plan.

- 6.1.15. Customer will gather, define, and provide all required Hosted PBX programming information to Cloud PBX by the due date given by the MyRepublic Voice Engineer. Such information may include, and is not limited to:
- a. Telephone number assignments;
  - b. End user information;
  - c. User telephone set type;
  - d. Voice mail permissions;
  - e. Hunt groups and hunt assignments;
  - f. User line appearance(s) on telephone sets other than the prime user's telephone;
  - g. Auto attendant and dialled selection trees;
  - h. Recording or Auto attendant greetings and tree selection announcements; and
  - i. Enhanced feature parameters and configuration.

6.2. Customer Provided Broadband Services

Customer may access the Cloud PBX Hosted PBX Service through Customer provided broadband services, or other WAN access service provided by Customer that extends Cloud PBX IP VPN Network services to a service location detailed in the Service Order, provided that :

- 6.2.1. MyRepublic makes no guarantee or representation to any performance SLA, QoS, or operation of Hosted PBX Service when accessed through Customer provided broadband services or Customer provided WAN access service.
- 6.2.2. Customer is solely responsible for procurement, sizing, installation, configuration, and operation of Customer provided broadband services or Customer provided WAN access service.
- 6.2.3. Customer is solely responsible for the maintenance, repair, and replacement of Customer provided broadband service or Customer provided WAN access service.
- 6.2.4. MyRepublic shall provide remote Service and Support of Cloud PBX provided Hosted PBX equipment.
- 6.2.5. Network at Customer's Service location meets the Cloud PBX VoIP readiness requirements set forth in Section 5.1 above; and
- 6.2.6. Hosted PBX Services are not available outside of Cloud PBX service area.

6.3. Emergency Calling Capability.

The Service, including 111 dialling function, will not be available/function under the following circumstances:

- 6.3.1. an electrical power outage affecting the Service location;
- 6.3.2. Customer's broadband connection service has been disrupted and not restored;
- 6.3.3. Service has been discontinued for any reason, including Customer non-payment;
- 6.3.4. for any reason whatsoever beyond MR's control; or

- 6.3.5. may be delayed or unavailable due to network congestion or other problems affecting the network.

**Customers should not rely on the Service for emergencies and are encouraged to acquire and maintain alternative means of accessing emergency service and to inform their authorised users of emergency calling alternatives available to them.**

- 6.4. Cloud PBX MyTalk Feature.

Cloud PBX MyTalk is an application of Cloud PBX's VoIP services that allows Customers to use their existing or MyRepublic provided telephone numbers ("TN") as a mobile application. Customers must provide their own devices and such devices must be Operating System compatible (i.e., Android or Apple iOS). Cloud PBX MyTalk includes voice and video calling (where available). Data usage is not included with Cloud PBX MyTalk and must be provided by Customer. There are no guarantees or SLAs associated with Cloud PBX MyTalk. Customers are authorised to originate calls using Cloud PBX MyTalk from New Zealand only.

## **7. Unlimited Local and On-Net minutes**

Subject to the Usage Requirements described below in Clause 7.3, which includes features such as Local off-net calls, hosted PBX includes unlimited 'on-net' Calling (i.e., calls for customers with multiple locations calling between locations are included at no additional charge).

## **8. National and International Calling Services**

National and International Services refer to National and International usage outside of the Local calling area and on-net calls. Unless otherwise set forth with respect to specific calling plans, all National and International calls for the below listed National and International destinations shall be billed in one (1) minute minimums increments and rounded to the nearest minute at the established rates and charges found at: [Official MyRepublic Voice Rate Table](#)

## **9. Unlimited Calling Plan - ANZ Mobiles and Landlines**

- 9.1. Subject to the usage limitations described below, all Cloud PBX services include unlimited calls to Australia and New Zealand mobile and landline destinations.
- 9.2. The following restrictions apply with regards to the Unlimited ANZ Calling Plan that is included with all Cloud PBX Hosted PBX services:
- 9.2.1. May only be used for normal business use.
- 9.2.2. Are provided only for dialog between two individuals at one time per line.
- 9.2.3. Are issued on a "one (1) user per line basis", meaning that only one registered user may be assigned to use the Services for any one line.
- 9.3. Unlimited calling plans also may not be used for any of the following prohibited uses (which are in addition to the other prohibited uses applicable to all Services) ("**Usage Requirements**"):

- 9.3.1. Trunking or forwarding a number to (an)other phone number(s) capable of handling multiple simultaneous calls, or to a private branch exchange (PBX) or a key system.
- 9.3.2. Spamming or blasting (e.g., sending one hundred (100) or more bulk and/or junk voicemail or faxes simultaneously).
- 9.3.3. Bulk call-in lines (e.g., customer support or sales call centres, “hotlines”, 900 numbers, sports-line numbers, etc.).
- 9.3.4. Auto-dialling or “predictive” dialling (i.e., non-manual dialling or using a software program or other means to continuously dial or place out-bound calls).
- 9.4. Unusually high usage of the Services may impair MyRepublic’s ability to provide high quality Services to others and/or indicate unauthorised use of the Services, in which case MyRepublic may suspend or terminate Customer account or, upon prior notice, convert Customer account to a metered calling plan that charges usage at the prevailing listed rates.
- 9.5. The Unlimited ANZ Fair Usage Policy can be viewed in its entirety in Clause 21 and MyRepublic reserves the right to add to, modify or amend this Fair Use Policy at any time for any reason at its sole discretion.

## **10. Equipment**

- 10.1. MyRepublic provided Equipment.

Equipment provided and delivered by MyRepublic to Customer is meant only to be used in conjunction with the Service, and Customer is not authorised to use the Equipment for any other way or purpose. Customer must strictly comply with all technical documentation and manufacturer's instructions that accompany such Equipment. MyRepublic shall not be liable to rectify any default or error occurred due to the negligence and/or non-adherence by Customer to such requirement. Any violation of the foregoing provision by Customer will be considered a Default pursuant to the terms of the Agreement. Customer will take all reasonable measures to protect and care for the Equipment as it would its own equipment. Customer shall be responsible for all loss, damage or destruction of the Equipment from the date of delivery to Customer's premise until the date the Equipment is removed from Customer's premises by MyRepublic or its contractors or agents at Customer's sole cost and expenses. Under no circumstance may Customer or its employees, agents, contractors or subcontractors move the Equipment furnished as part of the Service, outside of the facility in which it was installed, without taking prior written approval of MyRepublic.
- 10.2. MyRepublic shall furnish Service and Support of MyRepublic provided Equipment only during the term of Service, provided that the Equipment is used by Customer in compliance with the Agreement.
- 10.3. Customer provided equipment.

Customers providing their own equipment shall present an itemised list of equipment to be activated in conjunction with the Hosted PBX Service. All Customer equipment shall meet all manufacturer's interoperability specifications and vintage or firmware requirements for solution. Customer is solely responsible for all costs associated with any necessary upgrade of its equipment required to meet manufacturer interoperability specifications.

- 10.4. MyRepublic will not provide service to or support any Customer provided equipment or hardware. If, after diagnosing a problem with the Service, MyRepublic determines that the Customer provided equipment or hardware is the cause of the problem, Customer will be responsible for servicing such equipment or hardware at its own cost and expenses.
- 10.5. For Customer provided equipment, Customer acknowledges and accepts the following:
  - 10.5.1. There is no guarantee that Customer provided equipment or any of Customer's previously purchased and installed IP phone set, manufacturer specific software or feature module will work with Cloud PBX Hosted PBX Service.
  - 10.5.2. All Customer provided equipment must be in sound working order. Any defective cord, cable, or other components that impact the proper configuration, testing and operation of the equipment will be notated by the MyRepublic technician, and must be replaced at the Customer's own cost and expense. After completion of the re-flash of Customer provided equipment, Customer will no longer have administrative access to said equipment.
- 10.6. For MyRepublic to re-flash and re-configure Customer provided equipment and to download Hosted PBX service settings to Customer provided equipment, Customer is responsible for the following:
  - 10.6.1. Customer must provide MyRepublic with phone administrator password(s) or alternatively the "unlock" password(s) that Customer must obtain from current service provider. Customer shall be responsible for changing their passwords after the work has been completed. MyRepublic shall not be responsible for any breaches or unauthorised access to the Customer's equipment.
  - 10.6.2. All Customer provided phone sets must be reset to factory default mode in order to re-flash and reconfigure Customer provided phones.
  - 10.6.3. If available, Customer may provide MyRepublic with additional Customer provided equipment to be connected to the Customer's existing public Internet access. This will assist MyRepublic technicians in the site survey at validating the amount of time to be allocated for the re-flash and re-configuration of the Customer provided equipment. Customer provided phones must have a firmware version that meets MyRepublic's minimum requirements. If the firmware release is not of that level, Customer bears the responsibility of upgrading the phones' firmware prior to their Hosted PBX site survey.
- 10.7. **Equipment Purchased Through MyRepublic.**  
Customer may purchase Equipment through MyRepublic for use in connection with Service. Such Equipment in all instances will remain the sole responsibility of Customer and under no circumstance will MyRepublic's responsibility of providing the Service extend to such Customer's Equipment other than the original manufacturer warranty with respect to the Equipment.

## **11. Hosted PBX Service Delivery**

- 11.1. Installation of the Hosted PBX Service will be completed during normal business hours, Monday through Friday, excluding New Zealand public holidays. Delivery of Hosted PBX services



outside of normal business hours may be subject to additional charges that will be presented to Customer through the Change Request Process defined in clause 9.2.1 below.

11.2. MyRepublic may provide a remote MyRepublic Voice Engineer to be Customer's primary point of contact throughout the Hosted PBX Service Delivery process. The MyRepublic Voice Engineer shall be responsible for:

11.2.1. Coordinating the installation and activation of Cloud PBX provided Equipment and network service;

11.2.2. Co-developing project plan with Customer to include mutually agreed upon project schedule and milestone dates;

11.2.3. Providing Customer with all associated circuit order numbers;

11.2.4. Providing and maintaining the project schedule;

11.2.5. Coordinating with Customer all project related tasks, including:

- a. Hosted PBX equipment procurement and shipping;
- b. Hosted PBX programming and database collection;
- c. Delivery, installation, and testing of MyRepublic network services
- d. Delivery and installation of Hosted PBX equipment,
- e. Hosted PBX service activation

11.2.6. Documenting order changes and facilitating the change request process.

11.3. Change Request Process.

Customer requested changes may result in additional charges to those listed in any quotation, scope of work, or service activation form and may impact the project timeline. A MyRepublic Voice Engineer will coordinate all project changes received prior to the designated agreement signing date with the Customer designated contact and facilitate changes to the project through MyRepublic's change request process prior to MyRepublic performing work. Change requests received following the agreement signing date will require the Customer to complete and submit a Change Request Form request that includes applicable service charges. Such Change Request Form shall be subject to MyRepublic's written approval. For the purpose of this clause 9.2.1, changes shall include but not limited to:

11.3.1. The addition or change of hardware components and/or software license quantities provided for within the Service Order;

11.3.2. Changes in the Hosted PBX Service Delivery description;

11.3.3. Any MyRepublic performed modification to network services once Customer has provided network order acknowledgement and MyRepublic has provisioned network service to accommodate network service activation;

11.3.4. Requests for additional professional services by Customer;

11.3.5. Delays in the project caused by Customer readiness;

- 11.3.6. MyRepublic technician dispatch cancellation by Customer without 24-hour notice; or
- 11.3.7. Upon a finalised project delivery schedule, any delays not directly caused by MyRepublic or any MyRepublic subcontractors.
- 11.4. Project Kick off.

The MyRepublic Voice Engineer will coordinate an initial project kick off conference call with the designated Customer project contacts to review the following:
- 11.4.1. Service Order and Hosted PBX Service Delivery milestones and required Cloud PBX deliverables;
- 11.4.2. Review customer deliverables; and
- 11.4.3. Coordinate Hosted PBX site survey, if MyRepublic determines it is necessary.
- 11.5. Hosted PBX System Configuration and Set Up.

MyRepublic will configure and set up the Service and IP phone sets as specified by Customer in the Hosted PBX scoping documentation. Hosted PBX phone sets may be shipped directly to Customer's service location and will be configured in accordance with manufacturer's published specifications. MyRepublic may impose additional costs to configure certain features.
- 11.6. Hosted PBX Service Activation by Service Location.

The MyRepublic Voice Engineer will coordinate a meeting with the designated Customer contacts for the activation and testing of Hosted PBX Service. MyRepublic will install and test each MyRepublic provided phone set for proper user name, extension, location and basic operation.
- 11.7. Hosted PBX System Training and Administration.

MyRepublic will provide Customer with user guides sufficient for Customer to learn all available Hosted PBX system administrative and phone set portals and phone set features and functionality. It is Customer's responsibility to review any user guides. Additional remote or on-site Hosted PBX system / phone set training shall be available upon Customer's request for an additional charge.
- 12. Service Level Agreements and Associated Credits**
- 12.1. For any voice related Service outages exclusively due to the fault or failure of MyRepublic, Customer will receive the following credit. Provided that such outage has been reported by Customer within 24 hours of discovering it and the fault or failure is shown:

<b>Duration of Service Outage</b>	<b>Percentage Credit</b>
Up to 5 minutes (99.99% Availability)	No Credit
5 minutes - 4 hours	5% of MRC
4 hours – 8 hours	10% of MRC
8 hours – 12 hours	15% of MRC
12 hours – 16 hours	20% of MRC
16 hours – 24 hours	35% of MRC
24 hours or more	50% of MRC

MRC refers to monthly recurring credit for the Cloud PBX Service.

12.2. No credit will be earned under the following scenarios:

12.2.1. Non-compliance with respect to these terms and conditions (including payment terms)

12.2.2. Failure of equipment, systems, connections, or services not provided by MyRepublic; or

12.2.3. Any period in which MyRepublic has not been provided full and free access to all required systems and equipment in order to rectify a situation.

### **13. Hosted PBX Services and Support**

13.1. Hosted PBX Equipment and Services Support

After Hosted PBX Service activation, Customer will be required to contact MyRepublic Customer Care to report Hosted PBX and/or Cloud PBX network service repair issues, or to request moves, adds, changes to the Hosted PBX Services. Only the authorised Customer representatives may request changes to MyRepublic Hosted PBX Services. If MyRepublic, or its contractors and agents, provide and continue to own the Equipment needed for Customer to use Hosted PBX Service, then during the Initial Term or any renewal thereof, MyRepublic or its designee shall furnish Service and Support of the Equipment when required, provided that the Equipment is used in compliance with MyRepublic's normal operating instructions and not abused or modified by Customer. Customer will be responsible for making any requests for Service and Support by contacting MyRepublic through a recognized channel, or by giving MyRepublic written notice. For the avoidance of doubt, MyRepublic will not furnish Service and Support for Customer provided equipment and all costs or expenses related to fault isolation, diagnosis, hardware replacement and software updates for Customer provided equipment will be Customer's sole responsibility.

13.2. Details regarding Cloud PBX's Services and Support are as follows:

13.2.1. MyRepublic Network and Hosted PBX Service Coverage Hours. Cloud PBX Network and Hosted PBX Service and Support is provided during Business Hours being 9am to 6pm New Zealand Time, Mondays to Fridays, excluding public holidays.

13.2.2. Hosted PBX Service Repair Response Intervals.

Hosted PBX Service Repair Response interval is measured from the time Customer initiates requests for Service and Support by contacting MyRepublic through a recognized channel, or by giving MyRepublic written notice. Service and Support work will be performed during Customer's coverage hours. MyRepublic's response to Customer's request for Service and Support will include contacting Customer, remotely accessing the equipment or by dispatching technical resources to Customer's Premise. MyRepublic will then diagnose and remedy the fault. MyRepublic repair response intervals for Hosted PBX Services are stated below:

- a. Priority 1: Within four (4) Business Hours of a properly reported request for service and support service.
- b. Priority 2: Within eight (8) Business Hours of a properly reported request for service and support service.
- c. Priority 3: Within twelve (12) Business Hours of a properly reported request for service and support service.

13.2.3. Definition of Service and Support Priority:

- a. Priority 1: A problem which makes the continued use of one or more critical functions impossible (or severely restricted). Any defect that severely risks business operations. Problem may cause loss of data and/or restrict data availability and/or cause significant financial impact, such as:
  - i. 50% or more of the SIP endpoints cannot receive or place calls or retrieve voicemail.
  - ii. An outage of the main business number for the Customer's site
  - iii. An outage of the automated attendant
- b. Priority 2: A problem which severely affects or restricts major functionality. The problem is of a time sensitive nature and important to long term productivity but is not causing an immediate work stoppage. Operations can continue in a restricted fashion, such as:
  - i. 20% or more of the SIP endpoints cannot receive or place calls or retrieve voicemail;
  - ii. Certain features are not functioning properly or at all;
  - iii. Outage of the Web Portal administrative dashboards;
- c. Priority 3: A minor condition or error that has no significant effect on an End User's site operations, such as:
  - i. Outages of less than 20% of the SIP endpoints;
  - ii. A partial Hosted PBX Web Portal administrative dashboard outage or certain functions not working properly;

13.2.4. 4. Hosted PBX-Service and Support includes the provision of replacement MyRepublic provided hardware in the manner as set out below. Replacement hardware provided as part of Service and Support Services may be refurbished and will be furnished only on an exchange basis. Returned hardware that has been replaced by MyRepublic will remain MyRepublic's property.

- a. End of Life Equipment.
  - i. MyRepublic may discontinue, or limit the scope of Service and Support Services, for Equipment that a third party manufacturer has declared "end of life", "end of

service", "end of support", "manufacture discontinue", or similar designation ("**End of Support**") from time to time.

- ii. MyRepublic agrees to notify Customer of any hardware and/or software application elements that become End of Support by the manufacturer(s) at any time during the initial or extended service agreement. Upon notification, MyRepublic will consult Customer as to the impact to the Hosted PBX Service agreement. Consultation will include any recommendation to upgrade, replace, and/or deploy a new technology along with defining any applicable one-time or monthly service charges. A replacement Equipment of similar value and features will be provided at no additional charge. If Customer chooses replacement Equipment of a higher value, Customer will be required to pay an additional fee.

13.2.5. MyRepublic may electronically monitor supported Equipment for the following purposes:

- a. Remote diagnostics and corrective actions;
- b. To determine applicable charges;
- c. To verify compliance with applicable software license and hardware terms and restrictions and these terms and conditions.

13.2.6. None of the following are included in Service and Support provided by MyRepublic:

- a. Diagnosis or support of equipment or software other than supported Equipment provided by MyRepublic in connection with the Hosted PBX Service, including without limitation, systems interfacing with supported Equipment;
- b. Support of user-defined applications;
- c. Data recovery services;
- d. Support of Equipment used in breach of applicable license restrictions or contrary to capacity and other use limitations under which the Equipment was licensed by the manufacturer;
- e. Support of Equipment that have had their serial numbers altered, defaced or deleted;
- f. Service and Support or repair resulting from any of the following:
  - i. Neglect, misuse, power failures or surges, fault or negligence of any persons other than MyRepublic or its contractors, or causes external to the supported Equipment;
  - ii. The combination or integration of non-MyRepublic furnished equipment, software, or facilities with supported Equipment (except as provided in the MyRepublic documentation);
  - iii. Supported Equipment that have been changed, modified or altered if such changes, modifications or alterations are not performed or directed by MyRepublic ;
  - iv. Changes to the environment in which the supported Equipment were installed;
  - v. Any failure to follow MyRepublic's or the manufacturer's installation, operation or service and support instructions, including the failure to permit MyRepublic timely remote access to the supported Equipment;
  - vi. Actions of non-MyRepublic or MyRepublic authorised contractor personnel; or
  - vii. Force majeure conditions outside of MyRepublic's reasonable control.

13.3. Hosted PBX System Administration

MyRepublic will retain all administrator privileges for hardware and software delivered under the Cloud PBX Hosted PBX Service.

13.4. Customer System Administration

- 13.4.1. MyRepublic will grant Customer with limited administrator privileges for the purpose of self administering the MyRepublic-provided Hosted PBX Equipment. It is the Customer's responsibility to develop an understanding of the Hosted PBX Customer Management portal. Customer shall defend, indemnify, and hold MyRepublic, its principals, officers, directors, agents, and employees harmless from and against any loss, cost, damage, liability, claims and expenses of any kind arising directly or indirectly from the installation, operation, maintenance and repair of MyRepublic provided Equipment, or from Customer's or any of Customer's subcontractors' or agents' acts or omissions including, but not limited to, reasonable legal fees and court costs, except to the extent such loss, damage, cost or expense is due to the gross negligence or willful misconduct of MyRepublic, its employees or agents.
- 13.4.2. Web Portal and Passwords - The Service includes Customer secure access to web portals for viewing, configuring and managing available options and features within the allowable permissions for Customer administrators and end users.
- 13.4.3. Customer agrees that all administrators and end users will utilise MyRepublic provided user guides and use reasonable commercial efforts to perform all available portal functions themselves. MyRepublic may optionally assist a Customer by performing a portal function remotely on behalf of a Customer should the Customer experience difficulty or be in an emergency situation. In the event Customer requires MyRepublic to fully manage the functions available to the Customer via the portal, MyRepublic reserves the right to charge applicable Professional Service fees.
- 13.4.4. Customer administrators and users are responsible for the security of all user ID and password information. This agreement applies to all IDs and passwords associated with the Services account. By enrolling for and using the Services, Customer accepts sole responsibility for the security and confidentiality of all passwords, including immediately updating temporary passwords sent to users via email for their initial portal login. Accidental or unauthorised disclosure of passwords or user ID or inappropriate use may have serious consequences and Cloud PBX shall have no liability for failure to securely maintain this information.
- 13.4.5. Additionally, Customer remains responsible for the use of each of its accounts, whether used under any name or by any person, and for ensuring full compliance with this Agreement by all users of the account. In the event of a breach of security through Customer's account, Customer must immediately contact Cloud PBX customer service.
- 13.5. Customer Moves, Adds, Changes and Upgrade Policy  
Only authorised Customer contacts can request changes to the Hosted PBX Service that cannot be performed via the Hosted PBX customer portal. MyRepublic will provide Customer with an order number and a requested service date. Certain remote changes may require a reboot of the phones(s) to take effect. All Moves, Adds, and Changes performed by MyRepublic will be charged at the then current service rates.
- 13.6. Upgrades  
Upgrades will be co-terminus with the Agreement unless otherwise as amended in any extension of the Agreement.
- 13.6.1. Customer will be charged and agrees to pay a non-recurring charge as designated by MyRepublic in connection with related configuration, installation and training.

- 13.6.2. MyRepublic will adjust and Customer agrees to pay applicable additional monthly recurring charges for equipment and service and support services charges associated with Customer approved equipment and service and support service additions. Upgrades requested in last six (6) months of the term of the Agreement are subject to MyRepublic review and approval and may require a new term agreement. If upgrade requires new hardware, software and on-site installation and less than half of the term of the Agreement remains in place, then a new agreement may be required at MyRepublic's discretion.

#### **14. Call Recording**

Call Recording will be available as an optional feature. MyRepublic recommends Customer to seek a proper advice of a qualified lawyer before engaging in any recording activity. There are legal statutes governing the use of recording technology, including single and multi-party consent requirements, industry standards, business exceptions, and evidentiary issues. By using the Call Recording feature, Customer represents and warrants that it is familiar with, understands and will abide by applicable laws, standards, rules and expectations concerning electronic recording of telephone conversations and the legality of Customer's recording activity. The unauthorised or unlawful use of such technology can result in civil and criminal penalties, among other consequences, to Customer's business. MyRepublic shall not in any way or legally responsible for Customer's call activity, for any lack of Customer's knowledge, understanding or interpretation of any applicable rules, whether or not Customer's call recording activities are legal or illegal and regardless of the nature of the calls being recorded (e.g. if information that is sensitive or subject to any protection is being recorded). Customer will defend and indemnify MyRepublic, its affiliates and their respective employees, directors, officers and agents, from and against any and all losses, expenses, costs, liabilities, including reasonable legal fees, arising out of any suit, proceeding or other claim brought by a third party which is caused by, arises from or relates to Customer's use of the Call Recording feature.

#### **15. Customer Representations and Warranties**

In addition to the representations and warranties as set forth in the Agreement, Customer acknowledges that the Hosted PBX Service shall be subject to New Zealand export laws and regulations and that any use or transfer of the Hosted PBX Service must be authorised under those laws and regulations. In addition to the foregoing, any use of the Hosted PBX Service by Customer and/or Customer's End Users outside of New Zealand may be subject to the export or import regulations in other countries and is not covered under MyRepublic's warranties.

#### **16. Termination**

- 16.1. We may terminate all or any part of the Service or terminate this agreement with immediate effect without compensation and without prejudice to our rights to damages for any antecedent breach by you of this agreement if:
- 16.1.1. you breach any of the terms and conditions of this agreement or any other agreement you have with us;
  - 16.1.2. you become or threaten to become bankrupt or insolvent, or die;
  - 16.1.3. you make any arrangement or composition with or assignment for the benefit of your creditors or go into either voluntary or compulsory liquidation or a receiver, trustee, judicial manager or administrator is appointed over any of your assets;

- 16.1.4. the equivalent of any of the events under the laws of any relevant jurisdiction occurs to you;
- 16.1.5. you provide incorrect, false or incomplete information to us;
- 16.1.6. we suspect that you are using or allowing the Service to be used for fraud, misconduct or any other illegal or improper purpose;
- 16.1.7. the requirements of any relevant regulatory authority or the compliance with directions or guidelines issued by them resulting in us having to stop providing the Service to you;
- 16.1.8. if you are likely to create imminent harm to our network or any third party's networks or systems or our provision of the Service, or defraud us, or are likely to create imminent harm or are abusive to our personnel; or
- 16.1.9. for any reason beyond our control (including loss of any licence, wayleave or easement, requirements of any governmental or regulatory authority or orders by the court and cessation or failure to deliver by a third-party supplier) we are unable to provide the Service.
- 16.2. MyRepublic reserves the right to determine, in its sole reasonable discretion, not to arrange for or to discontinue provisioning of such Services and to terminate the Agreement for any reason whatsoever by giving Customer not less than ten (10) working days prior written notice thereof and without being liable for any kind penalty charges or damages. Such Service termination by MyRepublic may be based upon, but not limited to, a determination that the rules, regulations or policies of New Zealand regulatory entity, or any other applicable governmental agency or entity may cause the provisioning of such Services to be unlawful, unprofitable, impractical or undesirable in the sole determination of MyRepublic. For the avoidance of doubt, in the event of such a termination, early termination charges shall not apply.
- 16.3. If the Service is terminated:
  - 16.3.1. all sums due, accruing due or payable to us in respect of the Service and if applicable, the Equipment, up to the date of termination (including late payment charges) will, upon the termination, become immediately due and payable to us. There will be no refund of any charges paid to us for any equipment (including the Equipment) purchased from us;
  - 16.3.2. you must immediately (and in any event, within five (5) days of such termination) return to us all Equipment which we may have leased or rented to you in respect of the Service in the same condition as when originally delivered, normal wear and tear excepted, failing which we will be entitled to, at our absolute discretion but based on market related prices which are publicly available in New Zealand:
    - a. charge you the replacement value of the Equipment; or
    - b. the cost of repair of the Equipment; and
  - 16.3.3. you shall pay a service deactivation fee, in addition to any applicable early termination charges.



- 16.4. The termination of this agreement will not affect any accrued rights or remedies of either party against the other party.

## **17. Your Responsibilities**

- 17.1. You are responsible for the use of the Service under your account and for any Content disseminated through the account.
- 17.2. You must not use or allow the Service:
- 17.2.1. to transmit any content which may be defamatory, offensive, indecent, objectionable or illegal, or which may cause annoyance, harassment, irritation, inconvenience or anxiety to anyone, give rise to civil liability or otherwise violate any applicable laws, rules or regulations, or contains viruses, worms, trojan horses, time bombs, cancelbots or any other harmful, damaging or destructive programmes;
  - 17.2.2. to make or attempt any unauthorised access to any part or component of the Service, the network or any third-party systems or networks to which you can connect through the Service directly or otherwise;
  - 17.2.3. to disrupt the various networks that are connected to the Service or violate the regulations, policies or procedures of such networks;
  - 17.2.4. in any manner that may constitute a violation or infringement of the rights (including intellectual property or confidentiality rights) of any party; and
  - 17.2.5. to be resold or to transfer the Service and/or the Equipment to third parties without our prior written consent, whether or not for profit or otherwise. We reserve the right to immediately suspend or terminate your Service if we determine, in our absolute discretion, that you resell or transfer the Service.
- 17.3. You are solely responsible to keep secure the access credentials of the Service, including password, and internet access security if voice equipment is directly connected to the internet. Any fraudulent access to the voice equipment that results in excessive voice charges, are solely your responsibility, and you will be liable for said charges. You are also to inform us immediately if you suspect something amiss with the equipment or if you suspect it may have been compromised.

## **18. Matters beyond Our Control**

- 18.1. We will not be liable for any delay or failure in performance under this agreement resulting from matters beyond our control. These include acts of God, requirements of any governmental or regulatory authority, war, national emergency, accident, fire, lightning, equipment failure, computer software or software malfunction, electrical power failure, faults, interruption or disruption of the Network or the networks of other service providers or of your equipment or the equipment of any third party, riots, strikes, lock-outs, industrial disputes (whether or not involving our employees) epidemics of infectious diseases or acts of terrorism.
- 18.2. Without prejudice to Clause 18.1 above, we will not be liable for any delay or failure in performance under this agreement resulting from any delay or failure of any third party (including any supplier) to deliver or provide any facilities, infrastructure, equipment or services to us.

19. **Indemnity**

- 19.1. You must indemnify us, our affiliates, employees, directors, agents and suppliers against all claims, damages, losses and liabilities resulting from your use of the Service, your negligence, omission, act or breach of this agreement

20. **Liability**

- 20.1. The Service (including any installation, hardware, software, or support services) are provided on an "as is" and "as available" basis and you agree that you use the Service or rely on any Content obtained through the Service at your sole risk. MyRepublic provides, and you hereby accept, any MyRepublic or third-party hardware or software provided to or used by you in connection with the Service "as is" with no express or implied warranties of any kind, whether express or implied, including implied warranties of merchantability, satisfactory quality, fitness for a particular purpose and non-infringement, to the fullest extent allowed by law. No advice or information whether oral or written, obtained by you from us or through the Service will create any warranty not expressly set out in this agreement. Nothing herein shall be interpreted to enhance or create any warranty with respect to any third-party software. MyRepublic disclaims any and all liability arising out of the delivery, installation, support or use of any software. MyRepublic assumes no obligation to correct errors in any software. You understand and accepts all responsibility for any software meeting your requirements or expectations. Without prejudice to the foregoing, we will not be liable for any delay or failure to provide the Service, or any interruption or degradation of the Service quality which may arise from the following:

- 20.1.1. an act or omission of an underlying carrier, service provider, vendor or other third party;
- 20.1.2. equipment, network or facility failure;
- 20.1.3. equipment, network or facility upgrade or modification;
- 20.1.4. force majeure events such as (but not limited to) acts of God, acts of nature, strikes, fire, war, riot, acts of terrorism and governmental actions;
- 20.1.5. equipment, network or facility shortage;
- 20.1.6. equipment or facility relocation;
- 20.1.7. service, equipment, network or facility failure caused by the loss of power to you;
- 20.1.8. any act or omission by you or any person using Service or Equipment provided to you;
- 20.1.9. any third party's service, equipment, software, network or facility; or
- 20.1.10. any other cause that is beyond our control, including, without limitation, a failure of or defect in any Equipment, the failure of an incoming or outgoing communication, the inability of communications to be connected or completed, or forwarded.

- 20.2. Without prejudice to clause 19.1 above, we make no warranty:

- 20.2.1. that the Service, the software or any equipment (which we provide to you, including the Equipment) will not cause any harm to your applications, equipment, hardware, software, networks or content;
- 20.2.2. as to the accuracy, reliability or quality of any content obtained through the Service or that defects in any software will be corrected; and
- 20.2.3. that the Service and access to them are error free and uninterrupted or available at all times.

- 20.3. Except as set out in this agreement and to the extent permitted by law, we expressly exclude all other liability we may have to you, including all liability in contract, tort, negligence, misrepresentation, strict liability or statute. This exclusion applies for our benefit and that of all companies, directly or indirectly owned, wholly or partly owned or controlled by us or any of

these parties, and all their officers, employees, contractors and agents or anyone else to whom we or these parties are responsible (“**the Relevant Parties**”) and whether it relates to anything caused by or resulting from anything any of us does or does not do or delays in doing (even if done, omitted or delayed fraudulently, wilfully, recklessly, maliciously or negligently), whether or not it is contemplated or authorised by any agreement you have with us.

- 20.4. Under no circumstances will we or any of the Relevant Parties be liable for any special, incidental, indirect, consequential or punitive damages, losses, costs or expenses, even if such damages, losses, costs or expenses were caused wilfully, recklessly or negligently.
- 20.5. Under no circumstances will we or any of the Relevant Parties be liable for any lost profits, revenue, business or anticipated savings, even if such damages, losses, costs or expenses were caused wilfully, recklessly or negligently.
- 20.6. If we or any of the Relevant Parties are liable to you and we cannot, for any reason, rely on the exclusion of liability set out in clause 19.3 to 19.5 herein, then in no event will our liability for damages, losses, costs or expenses suffered or incurred by you and anyone else (whether in contract, tort, negligence, misrepresentation, strict liability or statute or otherwise) exceed \$5,000 for any event or series of related events and \$10,000 for all events occurring in any 12 month period during our Agreement. We will not be liable for any loss of data, profits or any consequential, indirect or special damage, or any loss to the extent that it is caused by you, for example through your negligence or breach of our Agreement. This limitation does not apply to any claim, damages, loss or expense caused by fraud, wilful breach or wilful damage.
- 20.7. The limitations and exclusions of liability in this agreement shall not apply to any liability we or any of the Relevant Parties may have in respect of any death or personal injury resulting from our negligence.

## **21. General**

- 21.1. **Currency:** Unless otherwise stated, a reference to dollars or \$ is a reference to New Zealand dollars.
- 21.2. **GST:** Unless stated otherwise, all advertised prices for business Services are exclusive of GST.
- 21.3. **No waiver:** No failure or delay by us to exercise or enforce any of our rights under our Agreement will operate as a waiver of such rights nor will such failure or delay in any way prejudice or affect our rights at any time thereafter to act in strictly in accordance with our rights under our Agreement.
- 21.4. **Severability:** If any provision of our Agreement is held to be invalid, illegal or unenforceable, whether in whole or in part, such provision shall be deemed modified to the extent, but only to the extent, of such invalidity, illegality or unenforceability and the remaining provisions of our Agreement shall not be affected.
- 21.5. **Reliance on verbal instructions:** You agree that we can act on any verbal instructions you give us in relation to the Services.

21.6. Governing law: Our Agreement is governed by the laws of New Zealand. You and we submit to the exclusive jurisdiction of the courts of New Zealand.

## 22. **Fair Use Policy**

### 22.1. Cloud PBX Hosted PBX

22.1.1. While reasonable uses of our services are permitted by MyRepublic, there are certain uses that cause extreme network capacity issues and interference with the network. Any use of our services or any other action that causes a disruption in the network integrity of MyRepublic services or its vendors, whether directly or indirectly, is strictly prohibited and could result in termination of the services.

22.1.2. You agree that you will NOT use the services in ways that violate laws, infringe the rights of others, or interfere with the users, services, or equipment of the services.

22.1.3. You agree and represent that you are purchasing the services and/or the equipment for your own internal use only, and shall not resell, transfer or make a charge for the services or the equipment without the advance express written permission of MyRepublic

22.1.4. In addition, unusually high usage of the services may indicate unauthorized use of the services, in which case MyRepublic may alter, suspend or terminate your Cloud PBX subscription.

### 22.2. Unlimited ANZ Calling Plan

22.2.1. Some of MyRepublic's plans and other services are offered on an "unlimited" basis. MyRepublic reserves the right to review usage of unlimited minute usage plans to ensure that you are not abusing such plans.

22.2.2. For purposes of this policy and your plan, "unlimited usage" means the combined number of inbound and outbound voice minutes to the specified destination, inclusive of all Cloud PBX users under a single site.

22.2.3. You agree that usage of MyRepublic's unlimited service plans will be comparable to that of the average business customer utilising such plans.

22.2.4. MyRepublic deems usage that substantially exceeds the average volume of its other unlimited usage plan customers as excessive.

22.2.5. You agree to use unlimited minute plans for normal voice calls and will not employ methods or devices to take advantage of unlimited plans by using the voice services excessively or for means not intended by MyRepublic.

22.2.6. MyRepublic may terminate service immediately if it determines, in its sole discretion, if you are abusing the Unlimited ANZ Calling Plan. We reserve the right to at any time to enforce this policy in accordance with its terms.

22.2.7. Examples of such prohibited uses include, but are not limited to:

- a. autodialling,
- b. continuous or extensive call forwarding,
- c. continuous connectivity,
- d. constant dialling or iterative dialling,
- e. fax broadcast or fax blasting, or
- f. telemarketing.

22.2.8. Unlimited plans also may not be used for any of the following prohibited uses (which are in addition to the other prohibited uses applicable to all services):

- a. trunking or forwarding a telephone number to (an)other phone number(s) capable of handling multiple simultaneous calls;
- b. spamming or blasting (e.g., sending one hundred (100) or more bulk and/or junk voicemail or faxes simultaneously);
- c. bulk call-in lines (e.g., customer support or sales call centres, "hotlines", 900 numbers, sports-line numbers, etc.);
- d. auto-dialling or "predictive" dialling (i.e., non-manual dialling or using a software program or other means to continuously dial or place out-bound calls); or
- e. conference calling, call forwarding, monitoring services, data transmissions, transmission of broadcasts, transmission of recorded material, or other connections which do not consist of uninterrupted live dialog between two individuals.

### 22.3. General

22.3.1. MyRepublic reserves the right to add to, modify or amend this Fair Use Policy at any time for any reason at its sole discretion.

22.3.2. You agree that if you breach the terms of this Fair Use Policy, MyRepublic has the right to:

- a. Temporarily suspend or block outbound calls through your Cloud PBX services; or
- b. Convert an "unlimited" calling plan to a metered calling plan; or
- c. Terminate your Cloud PBX service with proper notice.