

# Vetta Trading Ltd Master Services Agreement

## 1. Definitions and Interpretation

1.1 In this Agreement:

Agreement means this Master Services Agreement together with all Service Orders, Product Terms and any policies referenced in this Agreement.

Business Day means any day other than a Saturday, Sunday or public holiday in New Zealand.

Charges means the fees payable for the Services as set out in a Service Order or applicable Product Terms.

Customer means the person or entity entering into this Agreement with Vetta.

Equipment means any equipment, hardware or device supplied, leased or otherwise provided by Vetta for use with the Services, unless sold to the Customer under a separate agreement.

Minimum Term means the initial term for a Service as set out in the applicable Service Order or Product Terms.

Product Terms means the service specific terms that apply to a particular Service and form part of this Agreement.

Service means each service supplied by Vetta under this Agreement.

Service Order means a document, portal generated order or written confirmation through which the Customer orders Services and which is accepted by Vetta.

Service Term means the Minimum Term and any renewal periods that apply to a Service.

Vetta means Vetta Trading Limited NZBN 9429045944697.

1.2 Interpretation

(a) References to a person include any individual, company, partnership, trust or other legal entity.

(b) Words in the singular include the plural and vice versa.

(c) References to legislation include any amendments and replacements of that legislation.

(d) If there is any inconsistency between documents forming part of this Agreement, the order of precedence in clause 2.3 applies.

(e) Headings are for convenience only and do not affect interpretation.

(f) A reference to written or in writing includes email and electronic approvals unless stated otherwise.

## 2. Structure of Agreement

2.1 This Agreement sets out the general terms on which Vetta supplies Services to the Customer.

2.2 Product Terms apply to specific Services and form part of this Agreement. Each Service is supplied under the applicable Product Terms and the relevant Service Order.

2.3 If there is any conflict between documents forming part of this Agreement, the following order of precedence applies:

(a) any Service Order that has been signed or otherwise accepted by Vetta

(b) the applicable Product Terms for the Service

(c) this Master Services Agreement

(d) any policies published by Vetta including privacy, security or acceptable use policies.

2.4 Vetta may assign or novate this Agreement, or any rights or obligations under it, to any other entity at any time without the Customer's consent.

2.5 The Customer may not assign or novate this Agreement without Vetta's prior written consent, which Vetta will not unreasonably withhold.

## 3. Term

3.1 This Agreement commences on the date it is signed by both parties and continues until it is terminated in accordance with this Agreement.

3.2 Each Service will have its own Service Term as set out in the applicable Product Terms or Service Order. Termination of an individual Service does not automatically terminate this Agreement unless specified in the Product Terms or agreed in writing.

3.3 If this Agreement is terminated, all Service Terms for active Services will end on the same date unless continued by mutual written agreement.

## 4. Ordering Services

4.1 The Customer may order Services by:

(a) signing or otherwise completing a Service Order

(b) submitting an order using Vetta's online customer portal

(c) providing written confirmation that is accepted by Vetta.

4.2 No order for Services is binding on Vetta until Vetta accepts the order.

4.3 Vetta may refuse any order at its discretion, including where the order is not commercially or technically feasible.

4.4 By placing an order, the Customer agrees that the Services will be supplied in accordance with this Agreement and the applicable Product Terms.

## 5. Service Provision

5.1 Vetta will provide the Services with reasonable skill and care and in accordance with good industry practice.

5.2 Vetta does not guarantee that any Service will be uninterrupted or error free.

5.3 Service levels, response targets, availability commitments and related service credits (if applicable) will be set out in the relevant Product Terms or Service Schedule.

5.4 The Customer acknowledges that Vetta may rely on upstream carriers, networks, utilities and other third parties to provide some Services. Vetta is not responsible for any act or omission of an upstream provider and the Customer has no rights against any upstream provider.

5.5 Some Services may be supplied with a Minimum Term. If the Customer terminates a Service before the end of the Minimum Term, the Customer must pay all early termination charges set out in the applicable Product Terms or Service Order.

## 6. Customer Responsibilities

6.1 The Customer must:

- (a) provide Vetta with all information, access and cooperation reasonably required to supply the Services
- (b) ensure that its premises, facilities and equipment are safe and suitable for the installation and operation of the Services and any Equipment
- (c) comply with all applicable laws and with any policies published by Vetta that apply to the Services
- (d) ensure that only authorised persons use the Services
- (e) maintain the security of its systems, users, passwords and access credentials
- (f) ensure that all use of the Services by the Customer or its users is lawful and does not interfere with Vetta's network or any other person's use of services.

6.2 The Customer is responsible for all use of the Services by its personnel, contractors, agents and end users.

6.3 The Customer must not introduce any virus, malware or harmful code into Vetta's network or systems, or allow any person to do so.

6.4 The Customer indemnifies Vetta against all loss, liability, damage or expense arising from:

- (a) any breach of this Agreement by the Customer
- (b) any unlawful or improper use of the Services by the Customer or its users
- (c) any claim by a third party arising from the Customer's use of the Services.

6.5 The Customer must not, during the term of this Agreement and for 12 months after its termination or expiry, without Vetta's prior written consent:

- (a) directly or indirectly solicit, engage, employ or contract with any employee or contractor of Vetta who was materially involved in providing the Services; or
- (b) induce or attempt to induce any such employee or contractor to cease employment or engagement with Vetta.

## 7. Charges and Payment

7.1 The Customer must pay the Charges for the Services. Charges will be set out in the applicable Service Order or Product Terms.

7.2 Vetta will invoice the Customer monthly in advance for all monthly recurring Charges. Usage based or one off Charges will be invoiced monthly in arrears unless stated otherwise in the Product Terms.

7.3 Invoices are issued on the 1st of each month and are due for payment on the due date listed on the Invoice.

7.4 If the Customer fails to pay any amount by the due date, Vetta may charge interest at a rate of 3.5 percent per month on the overdue amount, calculated daily until paid in full.

7.5 The Customer must pay all collection costs, legal costs on a solicitor and client basis, and other reasonable expenses incurred by Vetta in recovering overdue amounts.

7.6 If the Customer disputes an invoice, it must:

- (a) notify Vetta in writing within 10 Business Days of the invoice date
- (b) provide full details of the dispute

(c) pay the undisputed portion of the invoice by the due date.

7.7 If the Customer does not dispute an invoice within the timeframe in clause 7.6, the invoice is deemed accepted.

7.8 Vetta may vary the Charges by giving the Customer at least 30 days written notice, unless the Product Terms specify a different notice period.

## 8. Equipment

8.1 Unless sold to the Customer under a separate agreement, all Equipment remains the property of Vetta.

8.2 The Customer must:

- (a) keep the Equipment secure and in good condition
- (b) use the Equipment only for the purposes of receiving the Services
- (c) not alter, repair, tamper with or remove the Equipment without Vetta's consent
- (d) comply with all reasonable instructions provided by Vetta regarding the Equipment.

8.3 The Customer is responsible for any loss, theft or damage to the Equipment from the time it is delivered until it is returned.

8.4 The Customer must insure the Equipment for its full replacement value while in its possession.

8.5 On termination of a Service or this Agreement, the Customer must return the Equipment to Vetta within 10 Business Days or allow Vetta access to collect it.

8.6 If the Equipment is not returned or is returned damaged, the Customer must pay Vetta the full replacement cost.

## 9. Customer Equipment Hosted by Vetta

9.1 If Customer equipment is installed or hosted at a Vetta premises (including collocated exchanges or datacentres), the Customer remains responsible for that equipment.

9.2 The Customer must ensure compliance with all safety, power, cooling and operational requirements.

9.3 The Customer must insure its equipment while located at Vetta premises.

9.4 Vetta is not responsible for loss or damage to Customer equipment unless caused directly by Vetta's negligence.

## 10. Privacy, Data and Security

10.1 Each party must comply with the Privacy Act 2020.

10.2 Vetta may collect and use personal information for supplying the Services, account management, credit assessment, fraud prevention and legal compliance.

10.3 If Vetta processes personal information on behalf of the Customer, Vetta will:

- (a) process the information only to provide the Services
- (b) take reasonable steps to protect it from unauthorised access, loss or misuse
- (c) notify the Customer of any notifiable privacy breach as required by law.

10.4 The Customer is responsible for ensuring its users comply with privacy obligations.

10.5 The Customer must not compromise the security or integrity of Vetta's systems.

10.6 For payment related services, the Customer must comply with PCI DSS.

10.7 For telecommunications services, the Customer acknowledges Vetta's obligations under the Telecommunications (Interception Capability and Security) Act 2013.

10.8 Vetta may monitor network traffic for operational, security or compliance purposes.

## 11. Confidentiality

11.1 Each party must keep all Confidential Information confidential.

11.2 Confidential Information includes business information, technical information, pricing, customer data and non public information.

11.3 A party may disclose Confidential Information:

- (a) to personnel or advisers bound by confidentiality
- (b) where required by law
- (c) with written consent.

11.4 Confidential Information does not include information that is publicly available, already known, or independently developed.

11.5 Each party must take reasonable steps to protect Confidential Information.

## 12. Marketing and Publicity

12.1 Neither party may issue public statements about this Agreement without consent.

12.2 Vetta may request permission to use the Customer's name and logo in marketing materials. Consent must not be unreasonably withheld.

12.3 Consent may be withdrawn by written notice.

## 13. Warranties

13.1 Except as expressly stated in this Agreement, Vetta provides the Services on an "as is" and "as available" basis.

13.2 To the maximum extent permitted by law, Vetta disclaims all warranties, representations and guarantees, whether express or implied.

13.3 To the extent that any Products, equipment, software or services supplied to the Customer are manufactured, licensed or provided by a third party, any warranties in relation to those Products are provided solely by the relevant third-party manufacturer or supplier.

Vetta does not provide any warranty in relation to third-party Products beyond those required by law. Where applicable, Vetta will, at the Customer's request and cost, use reasonable endeavours to assist the Customer to pursue any available third-party warranty or remedy.

Vetta's sole obligation in relation to third-party warranties is to act as an intermediary to facilitate the Customer's access to such warranties where reasonably practicable.

## 14. Liability

14.1 Vetta's total liability in any month is limited to the monthly recurring Charges payable for that same month.

14.2 Neither party is liable for indirect or consequential loss, including loss of profit, revenue, business, goodwill or data.

14.3 Vetta is not responsible for loss arising from:

- (a) unauthorised use of the Services
- (b) faults in Customer systems or equipment
- (c) upstream provider outages or failures.

13.4 Nothing excludes liability for:

- (a) personal injury caused by negligence
- (b) damage to physical property caused by negligence
- (c) any liability that cannot be excluded under New Zealand law.

14.5 The parties acknowledge this Agreement is entered into in trade and the Consumer Guarantees Act 1993 does not apply.

## 15. Indemnities

15.1 The Customer indemnifies Vetta against loss arising from:

- (a) breach of this Agreement
- (b) unlawful or improper use of the Services
- (c) third party claims arising from the Customer's use of Services
- (d) regulatory breaches by the Customer.

15.2 Vetta may require the Customer to manage the defence of any indemnified claim.

15.3 Vetta may participate in the defence at its own cost.

## 16. Suspension

16.1 Vetta may suspend Services where:

- (a) invoices are unpaid
- (b) Services are used unlawfully or in breach of policy
- (c) security or operational risks exist
- (d) fraud or security incidents are suspected
- (e) upstream providers cannot supply required services
- (f) network protection is required
- (g) an emergency requires suspension.

16.2 Reasonable notice will be given where practicable. Emergencies may require immediate suspension.

16.3 Charges continue during suspension unless caused by Vetta's breach.

## 17. Termination

17.1 Either party may terminate this Agreement by giving 60 days written notice.

17.2 Immediate termination may occur where:

- (a) a material breach is not remedied within 20 Business Days
- (b) a party becomes insolvent
- (c) fraud or unlawful activity occurs.

17.3 Terminating this Agreement does not automatically terminate all Services.

17.4 Early termination charges apply if a Service is ended before its Minimum Term ends.

17.5 On termination, the Customer must stop using the Services, return Equipment and pay all Charges.

## 18. Dispute Resolution

18.1 If a dispute arises, the parties must attempt to resolve it through good faith discussions between their operational representatives.  
18.2 If not resolved within 15 Business Days, the dispute must be escalated to senior management who must attempt to resolve it within a further 15 Business Days.  
18.3 If the dispute remains unresolved, the parties may attempt to resolve it through mediation administered by the Resolution Institute of New Zealand.  
18.4 If mediation is unsuccessful, either party may commence court proceedings.  
18.5 Nothing prevents urgent injunctive or equitable relief.

### **19. Subcontracting and Upstream Providers**

19.1 Vetta may subcontract its obligations but remains responsible for performance.  
19.2 Services may rely on upstream providers.  
19.3 The Customer has no rights against upstream providers.  
19.4 Vetta is not liable for upstream provider acts or omissions.  
19.5 The Customer must comply with changes imposed by upstream providers.

### **20. Wholesale Status**

20.1 This clause applies where the Customer resells Services.  
20.2 No partnership, joint venture, franchise or agency relationship is created.  
20.3 The Customer is responsible for its end users.  
20.4 Vetta has no responsibility for end users.  
20.5 The Customer irrevocably authorises and consents to Vetta, upon the Customer being in default of any payment in excess of sixty (60) calendar days or material obligation under this Agreement, to:  
(a) communicate directly with the Customer's end users in relation to the affected Services  
(b) continue supplying, suspend, migrate or otherwise manage those Services as reasonably required to protect Vetta's interests or ensure continuity of service  
(c) offer to contract directly with the end users for the continued supply of Services, on terms determined by Vetta  
(d) take any reasonable steps necessary to preserve, recover or transition Services where the Customer has failed to meet its obligations.  
The Customer warrants that it has obtained all necessary consents from its end users to enable Vetta to exercise the rights set out in this clause.

### **21. Notices**

21.1 Notices must be in writing and delivered by hand, courier, post or email to an address registered to Vetta, and known to be accurate.  
21.2 Notices are deemed received:  
(a) if delivered by hand or courier, on the day delivered  
(b) if posted, 10 Business Days after posting  
(c) if emailed, when sent unless an error message is received.  
21.3 Contact details may be changed by written notice.

### **22. Governing Law**

22.1 This Agreement is governed by New Zealand law.  
22.2 The parties submit to the non exclusive jurisdiction of the New Zealand courts.

### **23. General**

23.1 Entire agreement. This Agreement is the complete agreement between the parties.  
23.2 Amendments. Vetta may amend this Agreement or any referenced policy at any time by giving written notice to the Customer. Unless stated otherwise, amendments take effect 30 days after the date of notice. Continued use of the Services constitutes acceptance.  
23.3 Waiver. Failure to exercise a right is not a waiver.  
23.4 Severability. Invalid parts of the Agreement do not affect the remainder.  
23.5 Force majeure. Neither party is liable for events beyond reasonable control.  
23.6 Counterparts. This Agreement may be signed in counterparts including electronic copies.



**Execution**

Signed for by Vetta Trading Limited (Vetta) by its authorised representative:

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Name: \_\_\_\_\_ Role: \_\_\_\_\_

Signed for by \_\_\_\_\_ (the Customer) by its authorised representative:

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Name: \_\_\_\_\_ Role: \_\_\_\_\_