



Guard Point Terms of Use

Guard Point Pty Ltd ACN 639 579 025

1. The Agreement

Thanks for visiting our terms of use (**Agreement**), we are Guard Point Pty Ltd ACN 639 579 025 (**we, our, us** and other similar terms). These terms govern your access to and use of our mobile application and web interface which facilitates trusted communications between businesses and consumers known as Guard Point (**Guard Point**) and the service which enables it (**Service**). By using Guard Point, you agree to comply with and be legally bound by the terms and conditions of this Agreement. If you do not agree to these terms, you have no right to continue using Guard Point.

It is your obligation to ensure that you have read, understood and agree to the most recent terms available at www.guardpoint.com.au (**Website**). You must not use Guard Point or the Service if you are not able to form legally binding contracts or are under the age of 18.

Please email us at admin@guardpoint.com.au if you have any questions relating to these terms of use.

2. Disclaimer

You acknowledge:

- (a) we are not representatives of our business clients who provide services to you nor are we liable for any representation, claim or liability which arises from your engagement with them; and
- (b) Guard Point, the Website and our Service may from time to time contain bugs and errors which do not substantially interfere with its normal operations.

3. Service and Guard Point

3.1 The Service and Guard Point is reliant on third parties

You acknowledge and agree that parts of Guard Point and our Service is operated from information and communication technology infrastructure owned and controlled by third parties, such as Amazon Web Services. Certain functions are out of our control, including the SMS facilities, telecommunications network and postal service. You can only make full use of Guard Point if you have internet, mobile network coverage and access to a postal address (the later being used to verify your identity).

In order for one of our business clients to contact you they must have a subscription to our Service and hold identifying information about you. Not all businesses who you have a relationship with will use our Service.

3.2 Guard Point updates

We reserve the right to upgrade, maintain, tune, backup, amend, add to or remove items from, redesign, improve or otherwise alter Guard Point and our Service at our sole and absolute discretion. In doing so we may remotely deploy updates which must be installed in order for you to continue to use Guard Point. Where an update is required, and you do not accept it, you may not be able to use Guard Point until you install that update.

3.3 Inaccessibility of the Service

We reserve the right to make Guard Point and our Service inaccessible, as required for upgrades, maintenance and updates. From time to time, without notice, access to all or part of our Services may be disrupted or limited. During such an interruption, we will use reasonable endeavours to restore access as soon as practicable.

4. Support

We provide support for Guard Point via our Website.

5. User Account

5.1 Accessing Guard Point

You acknowledge and agree that to make use of Guard Point, you are required to provide us with personal information and create an account with us (**Account**). We reserve the right to reject any new Account in our absolute discretion.

In creating an Account you must provide any information reasonably requested by us for the purpose of providing the Service, verifying your identity and operating Guard Point. You warrant:

- (a) all of the information you provide to us is accurate and complete;
- (b) you will inform us by updating your Account details whenever any information changes; and
- (c) you will not provide false or misleading information.

5.2 Security responsibilities

We will take reasonable steps to ensure Guard Point and our Service is secure from unauthorised access consistent with generally accepted industry standards. You must take all reasonable steps to ensure usernames and passwords are not disclosed to third parties. If you become aware the security of your Account may be compromised, you must immediately notify us.

6. Licence

Subject to clause 10, App Marketplace Providers, we grant you a non-transferrable, non-exclusive, non-sublicensable, worldwide, royalty free and revocable licence to use Guard Point, on the terms contained in this Agreement (**Licence**). The Licence to use Guard Point is limited to your personal use and is subject to and conditional to your compliance with clause 8, Your use of Guard Point.

We reserve the right to limit or suspend your access to Guard Point and alter the Account information, if in our reasonable opinion:

- (a) you are in breach of any of the obligations or undertakings in this Agreement;
- (b) any of your verified identity sources have been compromised (e.g. mobile phone number) or you fail to reconfirm that source when we request you to;
- (c) your account information is incomplete;
- (d) no identity sources have been verified;
- (e) your Account is not used for a period of greater than 1 year; or
- (f) we suspect a security breach associated with your Account.

Suspending your Account will not constitute a breach of this Agreement by us.

7. Your use of our Website

7.1 Website for information only

The content of the Website is for informational purposes only and is to be used or relied on at your own risk. We make no warranty or representations as to the accuracy of the information.

The Website may contain hyperlinks and other pointers to websites operated by third parties, including our business clients. We do not control these third party websites and are therefore not responsible for the hyperlinks, information or downloads available on them. You visit third party websites entirely at your own risk.

Where we provide hyperlinks, we do so only for your convenience and do not indicate, expressly or implicitly, any endorsement, sponsorship or approval by us of the content on the third party website.

7.2 Amendments to the Website

You acknowledge and agree that there may be technical or administrative errors in the information on the Website. We reserve the right to upgrade, maintain, tune, backup, amend, add to or remove content from, redesign, improve, take offline or otherwise alter the Website at our sole and absolute discretion. During these times the Website may be temporarily unavailable.

7.3 Website not locally available

You acknowledge and agree, the Website will only be accessible using the internet and will not be available locally.

8. Your use of Guard Point

8.1 Accessibility requirements

You acknowledge and agree, Guard Point and the Service will only be fully functional if you have access to the internet and many of the features will not be available locally. In order to make full use of Guard Point you must allow your device access to the following services:

- (a) data connectivity;
- (b) device ID and call information;
- (c) storage; and
- (d) phone.

8.2 Prohibited conduct

You must not:

- (a) attempt to gain unauthorised access to or impair any aspect of Guard Point or our Service;
- (b) grant access to your Account to any other person;
- (c) use Guard Point for commercial purposes other than where you, your employer or your business are a party to another commercial agreement with us, and you are using the system in accordance with that agreement;
- (d) provide false or misleading information;
- (e) in any way tamper with, hinder or modify Guard Point;
- (f) knowingly transmit any viruses or other disabling features to Guard Point or the Service;
- (g) intentionally disable or circumvent any protection or disabling mechanism related to Guard Point;
- (h) install or store any software applications, code or scripts on Guard Point or the Service;
- (i) use Guard Point in any way which could be reasonably expected to interfere with or damage our Service or another user's use of Guard Point; or

- (j) attempt any of the above acts or facilitate or assist another person to do any of the above acts.

9. Submitted content

You acknowledge that we are not obliged to use any content submitted by you. However, we reserve the right to use the content you submit for the purpose of operating our services. In respect of any content you submit, you warrant you will not upload anything:

- (a) which is false, misleading or otherwise deceptive in any way;
- (b) which is improper, harmful, threatening, defamatory, abusive, inflammatory, harassing, vulgar, obscene, fraudulent, hateful, or otherwise objectionable;
- (c) which includes nudity, sex, pornography, adult-oriented content, or explicative or inappropriate language;
- (d) containing any computer virus or malicious code;
- (e) which infringes any third party Intellectual Property rights;
- (f) in breach of, or which may result in us being in breach of, any Privacy Law;
- (g) that is likely to offend, insult or humiliate based on race, religion, ethnicity, gender, age or sexual orientation;
- (h) in breach of any law in Australia or the jurisdiction in which you operate; or
- (i) any other content deemed inappropriate in our sole discretion.

We reserve the right to take down and destroy any content which you submit without notice. It is entirely your responsibility to keep copies of any content uploaded to the Website or Guard Point and you must not rely on us storing copies for you.

10. App Marketplace Providers

The Guard Point mobile applications are available from Google Play and the Apple App Store (**App Marketplace Provider**).

This Agreement is between us and you only. We and not the App Marketplace Provider are responsible for Guard Point, and we are solely responsible for:

- (a) its support and maintenance;
- (b) the investigation, defence, settlement and discharge of any claim which relates to an infringement of third-party Intellectual Property rights arising from the use of Guard Point; and
- (c) any claim Guard Point fails to conform to any applicable legal or regulatory requirement, including product liability claims and claims arising under consumer protection laws.

The App Marketplace Provider's liability to you is limited to the refund of the purchase price of Guard Point and any other remedies under consumer protection law. Your right to use Guard Point is non-transferable and non-sublicensable, except to the extent the App Marketplace Provider permits family sharing or like sharing arrangements.

The App Marketplace Provider may monitor your use of Guard Point and is entitled to enforce the terms of this Agreement against you. You agree to submit to their legitimate enforcement activities.

If there is any inconsistency between this Agreement and the application use rules set out in the App Marketplace Provider's terms of service, their terms of service will prevail to the extent of the inconsistency.

11. Privacy

When we talk about Personal Information, we mean information or an opinion about an identifiable individual (not a company), whether or not that information or opinion is true or in a material form (**Personal Information**).

You agree and consent to the handling of your Personal Information in accordance with our privacy policy, which is located at www.guardpoint.com.au/privacy (**Privacy Policy**).

We may amend our Privacy Policy in our sole discretion. If we amend our Privacy Policy, we will post the new version on our Website.

12. Intellectual Property

We warrant we own or have a licence to the computer code, graphics, trade marks, and other intellectual property (**Intellectual Property**) on our Website, in Guard Point and forming part of our Service. The use of our Intellectual Property is subject to copyright and other Intellectual Property rights under Australian laws and international conventions.

You warrant you will not, without our written consent, do any of the following or permit any person over whom you have effective control to:

- (a) copy or reproduce, or create an adaptation or translation of, all or part of Guard Point or the Service in any way, except to the extent that reproduction occurs automatically through its ordinary use;
- (b) incorporate all or part of Guard Point or the Service in any other webpage, software, mobile application or other digital or non-digital format;
- (c) sell, license, sublicense, lease, rent, distribute, disclose, permit access to, or transfer to any third party, whether for profit or without charge, any portion of Guard Point or the Service on any medium; or
- (d) directly or indirectly copy, recreate, decompile, reverse engineer or otherwise obtain, modify or use any source or object code, architecture, or algorithms contained in Guard Point, the Service or any documentation associated with it.

13. Warranties, liability and implied conditions

References to non-excludable conditions mean any guarantee, condition or warranty (such as the consumer guarantees implied by the *Competition and Consumer Act 2010* (Cth)), which cannot by law be excluded (**Non-Excludable Condition**).

13.1 Warranties

Subject to any applicable Non-Excludable Condition, we make no warranties or guarantees

- (a) Guard Point, the Service or our Website is fault free;
- (b) regarding Guard Point's, the Service's or our Website's fitness for any particular purpose, not otherwise expressed by us in writing; or
- (c) regarding your access to, or the results of your access to, Guard Point, the Service or our Website including its correctness, accuracy, timeliness, completeness, reliability or otherwise.

13.2 Implied conditions

We exclude all implied conditions from this Agreement except any Non-Excludable Condition.

13.3 Limitation of liability

Subject to the Non-Excludable Conditions, we exclude all other liability for any costs, including consequential losses, suffered or incurred directly or indirectly by you in connection with this Agreement, including:

- (a) Guard Point, our Service or the Website being inaccessible for any reason;
- (b) computer virus, trojan and other malware in connection with Guard Point, our Service or the Website;
- (c) any unauthorised activity in relation to Guard Point, our Service or the Website; or
- (d) your breach of this Agreement.

13.4 Limits associated with goods and services

Where a Non-Excludable Condition is deemed to apply, to the fullest extent permissible under the law, we limit our liability for any breach to:

- (a) in the case of goods, the re-supply of the goods or payment of the cost of the re-supply of the goods, or the replacement or repair of the goods or payment of the cost of replacement or repair of the goods; and
- (b) in the case of services, the resupply of the services, or the payment of the cost of having the services resupplied.

14. Indemnity

You indemnify us and our employees, agents, officers and contractors on a full indemnity basis, for all costs suffered or incurred, arising wholly or partially, directly or indirectly, from your breach of this Agreement.

15. Termination

We may end this Agreement immediately if in our reasonable opinion you are in breach of this Agreement or if we cease to provide Guard Point or the Service.

Subject to the terms of any other commercial agreement we have with you, your employer or your business:

- (a) you may terminate this Agreement immediately by cancelling your Account; and
- (b) we may end this Agreement for any other reason by notifying you 1 month in advance.

Upon termination, for any reason:

- (c) you must immediately stop using Guard Point;
- (d) you must remove the Guard Point mobile applications from your mobile devices;
- (e) if you have another commercial agreement with us and your Account has administrative functions you must nominate another user to manage those administrative functions;
- (f) we reserve the right to permanently erase any data associated with your Account; and
- (g) you will no longer have access to your Account or the Service.

16. General provisions

Assignment - We may assign, encumber, declare a trust over or otherwise create an interest in our rights in this Agreement without your consent.

Entire Agreement - This document contains the entire agreement between the parties about its subject matter. Any previous understanding, agreement, representation or warranty relating to that subject matter is replaced by this document and has no further effect.

Event of Force Majeure - means an act of war (whether declared or not) or terrorism, the mobilisation of armed forces, civil commotion or riot, natural disaster, health epidemic, industrial action or labour disturbance, currency restriction, embargo, action or inaction by a government, a failure of a supplier, public utility or common carrier or computer disruption due to the effects of a computer virus, trojan, malware, a ransomware attack or other malicious code.

- (a) The parties' obligations, other than an obligation to pay money, under this Agreement are suspended for the duration of and to the extent they are affected by an Event of Force Majeure.
- (b) Either party may end this Agreement if the Event of Force Majeure continues to effect Guard Point or the Service for more than 30 days.

Governing law - The laws of Queensland, Australia govern this Agreement. The parties submit to the non-exclusive jurisdiction of courts exercising jurisdiction there.

Notices - The parties agree all notices, disclosures and other communications that are provided in accordance with this clause, satisfy any legal requirement that such communications be in writing. Any communication under or in connection with this Agreement which we send to you, will be sent to you via a mobile application push notification or the email address provided to us in your Account. By accepting these terms, you give your consent to receive communications from us by email and push notifications. Your notices to us should be directed to admin@guardpoint.com.au or sent via the facilities made available to you on our Website.

Severability - Any provision of this document which is unenforceable or partly unenforceable is, where possible, to be severed to the extent necessary to make this document enforceable, unless this would materially change its intended effect.

Variations to this Agreement - We may vary this Agreement at any time by posting, with 1 month notice, the new Terms of Use on our Website or updating them via Guard Point. If you do not accept the terms of the variation you may terminate your subscription in accordance with clause 15.