

## Terms & Conditions

4<sup>th</sup> December 2016

### 1. Service

- 1.1. We will use all reasonable efforts to connect Your Service(s) to the network as soon as it is reasonably practicable after Our acceptance of Your written form, online internet form or voice recorded application and its related parts ('Application') and We will use all reasonable efforts to maintain the Service while You comply with this Agreement.
- 1.2. The telecommunications Service(s) are provided as a standard (not priority) Service, as indicated in the Application (the 'Service') to You in Australia through such Carrier or supplier network or networks We nominate from time to time directly with the Carrier, supplier or network operator (the 'Carrier' or 'Supplier'). Where carriage is supplied, the quality of the carriage of the Service(s) will be the same as that of the Carrier or Supplier.
- 1.3. Where We are providing data Service(s), the access component of the relevant data Service(s) and, the Customer Premises Equipment (CPE) modem/router, remain the property of Ignite Broadband.
- 1.4. You must not resupply any of the Service(s) without Our expressed agreement in writing.
- 1.5. Where there is any exclusion or inconsistency between the terms and conditions of particular Service(s) and the Standard Form of Agreement, the latter shall prevail, to the extent of any such exclusion or inconsistency.
- 1.6. You agree to our charges for other services and replacement hardware as defined in section 13 of this document (13. Rate Card).

### 2. Charges and Payment

- 2.1. Charges for the Service(s) are determined in accordance with the plan that you agree to sign up to as per our Critical Information Summary. We may change the amount of these charges or add new charges from time to time in accordance with clause 6. You will be invoiced for all calls, Service(s), usage, or other charges on a monthly basis at the commencement of each billing period. You must pay all invoiced amounts at the commencement of each billing period, paying for services in advance. Payments will be made via direct debit from the credit card you nominate when you sign up for our service.

- 2.2. Our charges to You may involve fees for connection, initiation, transfer, relocation or cancellation of any Service(s), or for debt recovery. Such charges, if not specified in accordance with the rate plan or such other manner specified in Your Agreement will be charged to You at cost to Us from the Supplier.
- 2.3. Overdue accounts may incur a late fee of \$15, charged on the next invoice.
- 2.4. We may, without notice, deactivate or cancel all or part of Your Service if any amount is not paid by its due date. We reserve the right to restrict any Service at any time if We feel the account has reached its credit limit or the Service appears to be fraudulent. Discounts may also be revoked during the overdue period. If any amount has not been paid by the due date, We reserve the right to deduct any unpaid amount (or part thereof) from Your credit card or charge card nominated on the application form.
- 2.5. If You default under this Agreement, We may use or disclose any personal information collected and recorded in relation to You to assist Us in the process of debt recovery. Personal information includes personal identifying details such as Your name, address, date of birth, employer's and driver's licence details and status of any of Your accounts or related bodies corporate, Your credit history, and information about Your creditworthiness or capacity.
- 2.6. In consideration of Us having agreed to supply the Service(s) to You, the person signing this agreement ('the signatories') on Your behalf hereby jointly and severally guarantee the payment on demand of all monies which are or shall hereafter become due to Us by You. This guarantee shall be a continuing guarantee and shall not be affected by Us giving time or any other indulgence to You, nor shall any of Our rights to sue or report Your details to a credit reporting agency be affected hereby.
- 2.7. We may charge You a dishonour fee of \$15.00 (GST inclusive) if Your payment is dishonoured by Your nominated financial institution or credit provider.
- 2.8. If We have advised You that electronic billing is available to You, and You choose to continue to receive a paper bill posted to You, We may charge You a paper invoice fee of \$2.50 (GST inclusive).
- 2.9. The relevant freight fee for postage may change from time to time. Such fees are displayed within the signup application form.
- 2.10. Some Service(s) including (but not limited to): 190x Service(s), Sensis directory, reverse charge calls, Telstra override dialling prefix may be billed directly by Telstra who will send a paper invoice to the installation name and address of the Service.

- 2.11. Our financial hardship policy contains information about situations where a customer is unable, reasonably due to illness, unemployment or other reasonable cause, to honour their financial obligations under their contract.

### **3. GST**

- 3.1. Unless expressly stated otherwise, the charges payable for the Service(s) under this Agreement are inclusive of GST.

### **4. Amendments To The Terms and Conditions**

- 4.1. These terms and conditions, and our Acceptable Usage Policy are subject to change at any time without notice. If We change the terms and conditions, or Acceptable Use Policy in a manner which We reasonably consider would cause detriment to You, We will notify You of the change at least 30 days in advance.

It will be sufficient that We notify You only of the fact that these terms and conditions, Acceptable Use Policy or Service Plans have been changed and that We post a revised copy of this Agreement, Acceptable Use Policy or Service Plans on the Ignite Broadband website ([www.ignitebroadband.com.au](http://www.ignitebroadband.com.au)).

The Customer shall be taken to have agreed to the terms of this agreement as so varied if the Customer continues to use the Service after the variation takes effect.

### **5. Privacy**

- 5.1. Ignite Broadband adheres to the *Privacy Act 1988*, in regard to the way in which We collect, use and disclose information about You.
- 5.2. You consent to Us and Our Carriers or Suppliers exchanging Your information and/or details and the Carrier or Suppliers, We and Our respective related bodies corporate may all use Your details for Our own purposes.
- 5.3. You authorise the Carrier or Suppliers to disclose to Us all records, and in particular exchange line, mobile or network details, telephone usage or accounts information, communication usage records and call event records.
- 5.4. You consent to Us disclosing Your information and/or details to any other Australian telecommunications Service provider or supplier who is a member of the Australian Telecommunications Fraud and Risk Association where We or the provider or supplier has reasonable grounds for suspecting that You (or any user of a Service provided to You) have been engaged, or are likely to engage, in fraudulent activity in relation to telecommunications Service(s).



## 6. Limitation Of Liability

- 6.1. To the full extent permitted by law We will not be liable in any circumstances, however arising, to You or any person claiming through You in contract, tort, or otherwise (including negligence, wilful or unlawful acts or omissions) for:
  - 6.1.1. any economic loss or damage and in particular (without limitation), any loss of revenue, profits, actual or potential business opportunities, contracts or anticipated savings of profits; or,
  - 6.1.2. any indirect or consequential loss; or,
  - 6.1.3. the acts or omissions of the Carrier or any of Our servants, officers, agents, contractors or subcontractors, or the failure of, or fault or defect, in any contractors of subcontractors or the failure of, or fault or defect, in any telecommunications Service, network, facilities, equipment or Service, used by Us in supplying telecommunications Service(s); or,
  - 6.1.4. Our failure to continue to provide the Service to You for any reason whatsoever. You acknowledge that We do not guarantee continuous fault-free provision of the Service. You must co-operate with Us reasonably to install the Service or to repair any faults.
- 6.2. You agree to indemnify and keep Us indemnified from and against liability and all loss and damages caused directly or indirectly by any breach of this Agreement by You or from any claim or action arising directly or indirectly out of any negligence, fraud or wilful act whatsoever, whether by You or any of Your servants, officers, agents, contractors or subcontractors.
- 6.3. You agree to indemnify and keep Us indemnified from and against liability and all loss and damages caused directly or indirectly by any breach of this Agreement by You or from any claim or action arising directly or indirectly out of any negligence, fraud or wilful act whatsoever, whether by You or any of Your servants, officers, agents, contractors or subcontractors.
- 6.4. To the extent permitted by law, You agree that Your indemnity shall survive the termination of this Agreement, against any actions, claims, expenses, demands, costs, damages, proceedings or any other liability whatsoever suffered by Us in connection with You using the Service(s) or CPE (as defined under clause 17) including, without limitation, You using or incorporating the Service(s) or CPE in other products used by You or supplied to You.
- 6.5. To the extent permitted by law, the provisions of this clause 10 also apply for the benefit of the Carrier.

- 6.6. In connection with legally requested Interception of Your Service, You indemnify Us for all costs, damages or expenses suffered by Us as a result of Your negligent, wilful or unlawful acts or omissions.
- 6.7. We will not be liable to You or any person claiming through You for costs incurred in contacting Us for any reason (including Service faults) by mobile phone, courier, post or any other method.
- 6.8. We will not be liable to You or any person claiming through You for costs or loss of income incurred in attending premises for Our representatives to install or repair any Services supplied by Us.
- 6.9. We take no responsibility and will not be held liable for third party fees or charges by a third party Carrier when using Your VoIP Service (either Ignite Broadband or otherwise). You must check for audible differences in landline or VoIP dial tones if Your VoIP device has PSTN pass-through, lifeline or failover.

## **7. Term Of The Agreement, Suspension, Cancellation, Or Part Cancellation Of A Product, Or Termination**

- 7.1. In respect to each Service set out in the Application, this Agreement will commence on the date of its submission by You and will continue in relation to that Service until:
  - 7.1.1. Expiry of the contract Term selected for the Service on the Application (Term); or,
  - 7.1.2. Indefinitely unless terminated. In this case charges for the Service will cease at the earliest of 30 days after receipt of cancellation notification, unless otherwise stated in any particular Service; or,
  - 7.1.3. Your initial contract period has expired or is about to expire, You must supply at least 30 days' notice to cancel; or,
  - 7.1.4. If We are supplying a Service to You for a fixed period as defined in an invoice You are required to pay for the entire invoice period. Cancellation of the following invoice period must be notified before that invoice falls due.
- 7.2. The period in which the Agreement is effective in accordance with clause 11.1 shall be the Term.
- 7.3. We may terminate this Agreement:
  - 7.3.1. before the initial Term is completed if You breach any term or condition of this Agreement or if a receiver or receiver and manager is appointed over any of Your property or assets, or if a liquidator or provisional liquidator is appointed to You or if You enter into any arrangement with Your creditors or You assign

- or otherwise deal with Your rights under this Agreement without Our prior written consent or, in the case of an individual, You die; or,
- 7.3.2. at any time by giving You at least 30 days' notice.
- 7.4. We may suspend the Service(s) at any time without notice if any of following occur
- 7.4.1. We are not satisfied with Your credit assessment;
  - 7.4.2. If You breach any of the terms and conditions of this Agreement Your Service(s) will be suspended. If You have failed to remedy the breach within 7 days of Us providing written notice to You of the breach, Your Service will be terminated;
  - 7.4.3. You fail to pay amounts owing to Us by the due date;
  - 7.4.4. We are unable, for any reason including the default of a Carrier, to provide the whole or part of the Service;
  - 7.4.5. You become subject to any form of insolvency administration.
- 7.5. If We suspend the Service(s), You will still remain liable for all monies due to Us under the Agreement, during the period of such suspension.
- 7.6. If Your Service has been suspended by Us due to non-compliance with terms and conditions of the Agreement, a fee of \$25 (GST inclusive) may be payable to re-activate Your Service(s).
- 7.7. We will charge You an early termination fee if You cancel Your Service with Us within the contract Term based on the amount of the monthly service fee multiplied by the remaining months of the contract.

## **8. Force Majeure**

- 8.1. We will not be liable for any delay in the connection of or failure in the operation of Service(s) due to any occurrence reasonably beyond Our control including failure of any link provided by the Carrier.

## **9. Customer Premises Equipment (CPE)**

- 9.1. The CPE modem/router is provided to you during the contracted term of the service, and remains the property of Ignite Broadband.
- 9.2. Risk in any CPE provided to You by Us passes to You upon delivery
- 9.3. On the termination of this Agreement for any reason, You will immediately return all of Our CPE
- 9.4. We will use Our best endeavours to deliver the CPE to You on the Delivery Date at the site during Your normal business hours.

- 9.5. We shall not be liable under clause 17 if the defect is the result of:
- 9.5.1. Improper use or mismanagement of the CPE by You; or,
  - 9.5.2. Operation of the CPE other than in accordance with the instructions given by Us; or,
  - 9.5.3. Use of the CPE in a manner not reasonably contemplated by Us; or,
  - 9.5.4. Modification of the CPE not authorised by Us; or,
  - 9.5.5. Use of the CPE in a manner contrary to law; or,
  - 9.5.6. Subjecting the CPE to unusual or not recommended physical, environmental or electrical stress; or,
  - 9.5.7. Reinstallation or moving of the CPE by a person other than Us; or,
  - 9.5.8. Use of the CPE by a person other than You; or,
  - 9.5.9. Your failure to comply with any terms of this Agreement; or,
  - 9.5.10. Your failure or refusal to install engineering changes or enhancements recommended by Us.
- 9.6. We are not liable for faulty CPE provided to you by a third party manufacturer. Where You are experiencing CPE fault, You should contact the manufacturer direct.

## **10. Coverage and Data Speeds**

- 10.1. The Service may not be available at all locations or premises.
- 10.2. Connection speeds available to You are affected by many factors, and actual rates are not guaranteed. 24.0 Installation and Programming Of Equipment

## **11. Network Security**

- 11.1. You agree to accept responsibility and liability for the security of and/or access to Your networks and related systems. You will take reasonable and appropriate precautions to prevent any violations of Your network and/or related systems security.
- 11.2. We do not take responsibility or are liable in any way for any violations of Your network and/or related systems security, however caused.
- 11.3. While We are responsible for the provision of Service(s), You are responsible for ensuring that adequate security in the form of virus protection and firewalls exist to protect Your electronic data and computer operating system or the electronic data and computer operating system of Your business against and unauthorised or unwarranted intrusion.



## 12. CUSTOMER SERVICE GUARANTEE

12.1. The Customer Service Guarantee (CSG) sets a minimum performance standards relating to telephone services. The CSG is administered by the ACMA and more information can be found here: Customer Service Guarantee In accordance with the Telecommunications (Customer Protection and Service Standards) Act 1999 (Cth), and the Telecommunications (Customer Service Guarantee) Standard 2011 (No. 2), Ignite Broadband proposes that you waive your protection and rights in full for the services to be supplied by Ignite Broadband. As a customer, you are not obliged to waive your protections or rights in full, however you acknowledge that Ignite Broadband reserves its right not to provide you with a service should you not agree to waive your protections and rights in full.

The protection and rights set out in the CSG which we propose that you waive include:

- damages for breach of performance standards;
  - time for payment of damages for breach of performance standards;
  - right of contribution;
  - guaranteed maximum connection periods;
  - guaranteed maximum rectification period;
  - information to be given to customers; and
  - making and changing appointments.
- 31.2 The specified timeframes and the amounts of compensation will vary and are dependent on customer location, infrastructure available at the customer premises and the actual length time that the fault has been present. Full details of the compensation can be found on ACMA website (acma).

## 13. Rate Card

Item	Charge
Static IP address	\$10.00 per month
Service call	\$70.00
Missed appointment (service call)	\$40.00
Dishonour fee	\$25.00
Replacement modem	\$80.00

Replacement modem power supply	\$20.00
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