

- (viii) comply with our directions; and
 - (ix) make sure that anyone using the equipment complies with your obligations under this clause 5.3(d).
- (e) You must allow us to inspect, service, upgrade, reconfigure, repair, replace or disconnect Our Equipment at any time we reasonably request and ensure that no other person modifies, services, upgrades, reconfigures, repairs or disconnects Our Equipment except with our prior written consent.
 - (f) You must notify us immediately, and follow our directions, if Our Equipment is damaged or incomplete when you receive it, or if at any time Our Equipment is lost, damaged, stolen or becomes faulty while in your care custody or control.
 - (g) On cancellation of the Service for any reason, the loan or rental of Our Equipment is automatically cancelled. We may cancel the loan or rental of Our Equipment immediately at any time by giving you notice:
 - (i) if, in our reasonable opinion, you are in breach of any obligation under this clause 5.3; or
 - (ii) if we are entitled to cancel the Service.
 - (h) On the sooner of expiry or cancellation of any agreed loan or rental period, you must permit us to enter onto the premises where Our Equipment is located and to disconnect and remove it, or if we request, at your cost, and in accordance with our directions, immediately return Our Equipment to us in good condition (except fair wear and tear).

5.4 PPSA & Security Interest

- (a) This clause 5.4 applies to the extent that the Agreement creates or evidences a security interest in equipment (and in proceeds of sale of equipment) including equipment to which we retain ownership under clause 5.2(g), and Our Equipment, for the purposes of the Personal Property Securities Act 2009 (Cth) ('PPSA'). The terms 'accession,' 'perfected security interest,' 'security agreement,' 'security interest', and 'verification statement' have the meanings given them in the PPSA.
- (b) If we ask you, you must promptly sign any document and do anything else we reasonably require to ensure that our security interest is a perfected security interest. You must not enter into any security agreement that permits any other person to have or to register any security interest in respect of the equipment or proceeds of sale of the equipment until we have perfected our security interest.
- (c) If you are a business or a non-profit organisation, you acknowledge and agree that the equipment is not used predominantly for personal, domestic or household purposes and accordingly you and we agree to contract out of sections 95, 118, 121(4), 130, 132(4), 135, 142 and 143 to the extent permitted by section 115(1) of the PPSA. You waive any rights you may otherwise have to receive notices under sections 95, 118, 121, 130, 132 or 135 of the PPSA, to apply to court for an order concerning the removal of an accession under section 97 of the PPSA, to object to a proposal by us to retain any collateral under sections 130 and 135 of the PPSA, and to receive a verification statement in relation to registration events in respect of the equipment supplied to you from time to time.
- (d) You and we agree not to disclose information of the kind that can be requested under section 275(1) of the PPSA. You must do everything on your part necessary to ensure that section 275(6)(a) of the PPSA continues to apply.

6 NETWORK MAINTENANCE, SUPPORT SERVICES AND FAULT REPAIR

Our responsibility and obligations

- (a) We and our suppliers may perform maintenance, upgrade or repair services at any time on Our Equipment, and the infrastructure we and they use to supply the Service and will try to minimise any interruption to the Service or adverse impact on quality.

- (b) We provide remote support for use of the Service in Australia within the hours stated in the Critical Information Summary, or if not stated there, those stated on our website for the Service. We may agree to provide additional support services, for additional charges.
- (c) We are only responsible for repairing a fault in the Service which you notify to us if the fault is created or caused within Our Equipment or the infrastructure we and our suppliers use to supply the Service, up to our side of the Network Boundary.
- (d) If we are responsible for repairing a fault in the Service we will take reasonable steps to restore the Service as soon as we reasonably can. We aim to meet any fault repair times that we give you but (except if we have agreed otherwise with you in writing or if the law requires otherwise) those times are estimates only and we do not guarantee to meet them. If we become aware that a fault in the Service is on your side of the Network Boundary, our sole responsibility is to notify you. We may, but are not obliged to, provide additional help.

Your responsibility and obligations

- (e) You are responsible for, and must repair or arrange the repair of a fault in the Service created in or caused by Customer Equipment or on your side of the Network Boundary. You are responsible for providing all support services in respect of the Customer Equipment and infrastructure on your side of the Network Boundary.
- (f) You must promptly report any fault in the Service which you reasonably believe is our responsibility, and you must make any request for other support services, by contacting our customer service team by telephone or online inquiry as stated in the Critical Information Summary, or if not stated there, those stated on our website for the Service. Before reporting a fault to us, you must try to ensure that the fault is not in the Customer Equipment or on your side of the Network Boundary.
- (g) You must notify us promptly of any changes to the Customer Equipment which may be relevant to the Service.
- (h) You must arrange access to the premises if we request and provide other help if needed to enable us and our suppliers to investigate and repair a fault and provide support services.

7 USING THE SERVICE

Your responsibility and obligations

- (a) You must ensure that the Service is used only for its intended use as specified in the Critical Information Summary or Service Description.
- (b) You must comply with our acceptable use policy available on our website and fair use policy, if any, referred to or specified in the Critical Information Summary or Service Description.
- (c) You are responsible for keeping secure the means of access to the Service to ensure that unauthorised access does not occur. You must keep secure any equipment you connect to the Service and any data stored on that equipment (including keeping user names and passwords secure) and you are responsible for the risk of unauthorised access, misuse and loss or corruption of that data. You must take reasonable steps to keep the Service and your account secure from unauthorised access. You must notify us immediately you become aware of any actual or attempted unauthorised use of the Service or breach of security, giving us your account number and full details of the security breach. Information about security tools is available on our website.
- (d) You are solely responsible for all use of the Service and for all risks associated with your activities when you use the Service (including risks associated with transmitting, communicating, accessing, downloading, or publishing material, content of communications, making purchases or providing personal or confidential information, ensuring that material is sent or received correctly, and data loss, corruption or interception, whether by using the internet or other means). We are not liable for any loss, cost, damage or liability arising from your activities when using the Service.
- (e) You must ensure that anyone you authorise to use the Service complies with your obligations under this clause 7 and you are responsible if they fail to do so.

- (f) You must comply with our reasonable directions and all directions of any regulatory body in connection with use of the Service. Where you access third party content or where a third party network is used to transmit material in connection with the Service, you must comply with any applicable acceptable use terms or other rules of those third parties.
- (g) You must provide us all the information and assistance we reasonably require to enable supply of the Service and compliance with any request or direction of a government agency, emergency services organisation or other authority, and to investigate if we reasonably suspect unauthorised use of the Service or if you have misused the Service or breached the Agreement.
- (h) You must use the Service only for lawful purposes and activities and must comply with all laws, regulations and industry codes of practice which apply to your use.
- (i) You must not use the Service in any manner which could cause you or us to violate a law, regulation or industry code, commit an offence, endanger any person, damage any property, infringe a person's rights (including copyright), or which could give rise to us incurring a liability. You must not use the Service to transmit, communicate, access or publish any material which is unlawful, offensive, indecent, defamatory, abusive, menacing or harassing, material which is unsolicited and material known to contain a virus or similar.
- (j) You must not knowingly do anything, or use the Service in any manner, which might compromise the security or safety of, or which might damage, interrupt or interfere with the operation of, the Service, the infrastructure used to supply the Service, Our Equipment or any other computer, system, network or services, including hack or otherwise obtain unauthorised access to any of them.

Our Rights to intercept, monitor and take other action

- (k) You acknowledge and agree that, without liability to you, we may:
 - (i) intercept communications and provide call related information to government authorities (including law enforcement agencies), to the extent required by law to do so;
 - (ii) (but we are not obliged to) monitor the usage of the Service and communications sent over it for compliance with the Agreement and to protect the infrastructure used to supply the Service and its other users;
 - (iii) implement traffic management measures as set out in our acceptable use policy to; and
 - (iv) take any steps necessary to monitor and ensure our compliance with the law, relevant industry code of practice, court order, or notification or direction from a regulatory body.
- (l) We may (but are not obliged) to scan Customer Equipment or otherwise test the security of your Service, in order to help you to keep your Service secure from unauthorised access.

8 CHARGES, BILLING AND PAYMENT

8.1 Charges

- (a) You must pay all Charges in connection with the equipment, the Service and the Agreement set out in your order, the Critical Information Summary, the Special Offer (if any), these General Terms and our Standard Fee Table.
- (b) Charges for the Service accrue from the Start Date and may include set up Charges (which may be payable before we commence provisioning), usage based Charges and recurring Charges and any other charges set out in the Agreement.
- (c) You are responsible for all Charges for use of the Service whether or not you authorised the use, including those arising from toll fraud or other unauthorised or fraudulent usage, or from your failure to keep your Service secure. You are also responsible for any Charges arising from your failure to access or disconnect a call properly or from your failure to disconnect a Service when vacating premises.

- (d) Recurring Charges are payable from the Start Date until cancellation of the Service. The recurring Charges continue to be incurred during any period of interruption to the Service including if caused by your failure to connect equipment to the Service, failure of Customer Equipment or other fault of you or anyone else who uses the Service, relocation of the Service, failure of services provided to you by anyone else (including broadband internet service where this is not provided by us), interruption for an insignificant period, or suspension of the Service for any reason. Recurring Charges also continue to be incurred during any period when the Service is not available because you failed to pay the Charges or in the case of a prepaid service, you failed to maintain the minimum balance required for the Service. If the interruption was caused by our fault or negligence, you may claim a credit for the recurring charge for the period of interruption as set out in clause 10.1(c).
- (e) If you ask us to provide services onsite, or outside the support hours specified in clause 6(b), or if you ask us to provide services in connection with Customer Equipment which are outside any warranty or Consumer Guarantee obligations we may have, you must pay our reasonable charges for those services. We will advise you of our charges before you incur them.
- (f) You must pay our reasonable charges to repair, replace, modify or service the Service or Our Equipment if required as a result of:
 - (i) failure of Customer Equipment arising from any act or omission of you, your employees, agents or contractors or anyone authorised by any of them ;
 - (ii) your failure to return Our Equipment in good condition (excepting fair wear and tear) when required under the Agreement or loss, theft or damage of Our Equipment (except to the extent caused or contributed to by us); or
 - (iii) any negligence, fraud or breach of the Agreement by you, your employees, agents or contractors or anyone authorised by any of them.

We will try to advise you of these charges before you incur them but given their nature, we may not always be able to do so.

- (g) You must pay our call out fees if we make an onsite visit after giving you reasonable prior notice, and you fail to give us access or to have a suitably qualified representative onsite to assist us.
- (h) We may from time to time make a Special Offer with Charges and terms and conditions that differ from those in the Critical Information Summary. If you accept a Special Offer from us, the Charges and terms and conditions of the Special Offer take priority over the Critical Information Summary, to the extent they differ, only for the limited period specified in the Special Offer.
- (i) All Charges are in Australian dollars. If a Charge is stated to exclude GST, and we are liable to pay GST on supply of the Service to you, we may increase the Charge by the amount of GST and you must pay us the whole of that amount when we ask. If the charge is stated to be inclusive of GST, but the GST rate used is incorrect or changes, the amount of the charge will be adjusted to reflect the actual GST rate.

8.2 Billing and Payment

When we bill you

- (a) We may bill and require payment of certain Charges as set out in the Agreement before we commence to deliver equipment or connect the Service. Typically these are Charges for equipment and set up and provisioning of the Service. We may bill and require payment of Charges for any additional services before we provide those services. Unless otherwise stated in the Critical Information Summary, recurring Charges are billed in advance and usage based Charges are billed in arrears, except in the case of a prepaid service.
- (b) We will bill you monthly, commencing on the date which is one calendar month after the date we accept your order, unless otherwise specified in the Critical Information Summary. We will try to include all Charges relating to the current billing period on your bill but usage based Charges and some other Charges may not appear on your bill until up to 160 days from the date you incurred the charge. We may bill and you must pay any minimum

monthly Charge stated in the Critical Information Summary even if you have not incurred the services related to those Charges.

- (c) We may ask you to make interim payments at other times if there is unusually high usage on your account, to maintain your account within any credit limit we have approved or to maintain any minimum account balance stated in the Critical Information Summary, if we have reason to be concerned about your ability to pay at any time or if permitted under another provision of the Agreement. We may bill you after a Service has been cancelled for Charges you incurred before or when the Service was cancelled, but we will bill them within a reasonable time after cancellation.

How we bill you

- (d) We will send bills to your address (by email, facsimile or post and in HTML, pdf or paper format, at our option). If we send or offer to send your bill by email, and you ask us to provide a paper copy, we may charge you a paper invoice fee.
- (e) If we have taken reasonable steps to ensure you receive it, a bill remains payable even if you do not receive it because you have changed address and not notified us or because your email mailbox is full or for other reason attributable to you.
- (f) If you ask us to re-send you a bill more than 3 months after the issue date, and that billing information is available without charge through our website, we may charge you an invoice copy fee for each bill you request.

Billing errors and adjustments

- (g) If we find an error on a bill, we will apply an adjustment to your service account and this will appear on your next bill. We will credit your account with any overpayment and you must pay any underpayment by the due date. If you no longer have an account with us, we will take reasonable steps to refund any overpayment to you.
- (h) If we owe you an amount, we can provide it as a credit on your service account and deduct it from amounts you owe us.

When to pay

- (i) You must pay the Charges by the due date specified on the bill and must make any interim payment described in clause 8.2(c) by the due date notified by us.
- (j) For all prepaid accounts, you must pay all Charges in advance each month and keep your account topped up as required to maintain the minimum balance set out in the Critical Information Summary.

Payment Options

- (k) You must pay the Charges using the payment method specified on the bill or on our website except that if a specific payment method is required in the Critical Information Summary, or otherwise agreed with you, you must use that payment method.
- (l) If you have agreed to pay by automatic payment or direct debit from your credit card, charge card or bank account:
 - (i) you authorise us to:
 - (A) (in the case of payments by card) disclose your card details to and obtain information from the card issuer to verify those details and your ability to pay the Charges using the card; and
 - (B) debit your credit card, charge card or bank account all Charges you owe us from time to time in accordance with the Agreement, including any Charges which may become owing as a result of cancellation of the Service;
 - (ii) you must ensure that your account has sufficient funds to allow payment when required; and

(iii) you must notify us promptly if there is a change to your card or bank details.

(m) If you pay by credit card, you must pay a credit card fee if applicable as set out in the Standard Fee Table. We may choose to stop accepting credit or charge cards from one or more providers, by giving you reasonable notice.

Payment Default

(n) If you fail to pay the Charges in accordance with the Agreement, we may:

(i) withdraw any discounts in connection with the Service and/or restrict, suspend or cancel the Service as permitted under clause 9.2;

(ii) charge you a late payment fee as set out in the Standard Fee Table;

(iii) exercise a general lien over any Customer Equipment in our possession until any outstanding charges have been paid in full; and

(iv) charge you our costs of recovering payment for outstanding charges, including reasonable debt recovery agent costs and legal costs.

(o) If your payment is dishonoured by the bank or credit or charge card issuer, we may charge you a dishonour fee.

Financial Hardship

(p) Our Financial Hardship Policy sets out how we can assist customers who are experiencing financial hardship. You can obtain a copy from our website or by contacting our customer service team.

Changes to credit accounts

(q) If at any time we have reason to become concerned about your ability to pay the Charges, we may in respect of your credit account (if any), decline to extend further credit or vary your credit limit and any related conditions.

(r) If you fail to pay any amount when due or otherwise breach the Agreement, become bankrupt, insolvent, enter into an arrangement with your creditors, receivership, liquidation or similar, or if we become concerned about your ability to pay the Charges for any other reason, we may cancel your credit account (if any) without prior notice and all balances owing will become immediately due and payable.

8.3 Billing Disputes

(a) If you have reason to believe there is an omission or error in relation to a charge on a bill, you may dispute the bill, by giving written notice to our customer service team before the due date for payment of the bill. Your notice must set out the date and number of the disputed bill, itemised details of the charges in dispute, your detailed reasons and any documentation to support your claim and enable us to investigate it. You must pay any undisputed amount by the due date.

(b) We are committed to ensuring that our bills are accurate and unless you provide reasonable substantiation of your claim, we may rely on our records as proof of usage and Charges incurred.

(c) Our Complaint Handling Process sets out our process for handling billing disputes and other complaints. You can obtain a copy from our website or by contacting our customer service team.

8.4 Financial Security

(a) As a condition of our acceptance of your order, or if we have reason to be concerned about your ability to pay at any time and based on the outcome of a credit assessment conducted in relation to you, we may ask you to provide a security in the form of a cash deposit to be held by us, or a bank guarantee in a form acceptable to us, or to increase any security previously provided.

(b) If you fail to provide adequate security within 5 working days of our request, we may, without liability, suspend the Service to you in accordance with the Agreement until we receive adequate security.

- (c) We may access the security at any time to pay outstanding Charges you owe us but only after giving you at least 5 working days' notice that we intend to access the security if you fail to pay the Charges within that period.
- (d) We will refund you the security deposit less any amounts owing, without interest, within 10 working days of the sooner of you satisfactorily completing the terms of the security arrangements, or cancellation of the Service.

9 SUSPENSION AND CANCELLATION

9.1 Your Rights to Cancel the Service

- (a) To cancel the Service you must give us written notice as set out in clause 15(e) (unless the law specifies otherwise) with the notice periods set out in this clause 9.1. Failure to pay Charges does not automatically cancel the Service and recurring Charges will continue to be incurred until the Service is cancelled by you or us.
- (b) You may cancel the Service if the law gives you a right to cancel which cannot be excluded by contract. You and we must comply with the obligations relating to return of equipment, refunds and payments set out in clause 9.3 unless the law requires otherwise.
- (c) You may cancel the Service at any time before we give you notice of Service connection and in this case you may incur the Charges set out in clause 9.3(b).
- (d) You may cancel the Service at any time after we give you notice of Service connection by giving us 30 days' notice before the end of a billing period. In this case you may incur the Charges set out in clause 9.3(c), which for a Service with a Fixed Contract Period include the Break Fee.
- (e) You may cancel the Service if we commit a material breach of the Agreement and fail to correct the breach within 30 days of receiving notice from you to do so. In this case you may incur the Charges set out in clauses 9.3(b) or 9.3(c) (depending on the timing), but you will not be charged a Break Fee.
- (f) You may cancel the Service if permitted under any other clause of the Agreement.

9.2 Our Rights to Restrict, Suspend or Cancel the Service

- (a) To cancel the Service we must give you notice as set out in clause 15(e) if required but there are also circumstances where we can cancel immediately without giving you notice beforehand, as set out in this clause 9.2.
- (b) **(General)** We may cancel the Service:
 - (i) if we determine that for technical or other reasons we will be unable to provision or connect the Service to you within a reasonable time after accepting your order, immediately by giving you notice;
 - (ii) where the Service has no Fixed Contract Period, or the Fixed Contract Period has expired, at any time by giving you 30 days' notice;
 - (iii) where the Service has a Fixed Contract Period, by giving you notice 30 days before expiry of the Fixed Contract Period; or
 - (iv) if you consent to cancellation of the Service.
- (c) **(Cancellation or suspension for credit management reasons)** We may cancel or suspend the Service immediately and without notice beforehand if you fail to pay any amount by the due date for payment and:
 - (i) we assess that you or your account status present an unacceptably high credit risk to us;
 - (ii) we reasonably suspect fraud or attempted fraud; or
 - (iii) you fail to pay the amount owing within 5 working days of us giving you notice that the amount is overdue and that the Service may be disconnected, suspended or restricted.

- (d) **(Restriction for credit management reasons)** We may restrict the Service immediately and without notice beforehand if:
- (i) we have agreed to restrict the Service at a certain point and you have reached that restriction point. (A restriction point is the point (if any) you have nominated at which access to a service or an aspect of a service is limited.); or
 - (ii) you have a prepaid service and your account balance falls below the required minimum balance.
- (e) **(Cancellation or suspension for other customer cause)** We may cancel or suspend the Service immediately by giving you notice if you:
- (i) commit a material breach of the Agreement which is capable of being corrected and you fail to correct the breach within 30 days of receiving notice from us to do so;
 - (ii) commit a material breach of the Agreement which is not capable of being corrected;
 - (iii) withdraw your consent (if any) to waive your rights and protections under the Customer Service Guarantee Standard;
 - (iv) fail to provide us with access, authority or information reasonably notified as required by us to enable us to provide the Service or as set out in clause 11;
 - (v) or anyone using the Service, in our reasonable opinion, have been, or is, involved in fraud or other illegal conduct in connection with the Service;
 - (vi) or anyone using the Service fail to use the Service as permitted under the Agreement;
 - (vii) in our reasonable opinion, are, or are operating as, or using the Service as, a Carrier or Carriage Service Provider;
 - (viii) in our reasonable opinion, are using the Service for a purpose other than that for which it is intended as set out in the Critical Information Summary or Service Description, and you fail to change to a more suitable service within 30 days of receiving notice from us asking you to do so;
 - (ix) fail to provide or increase financial security, as required under the Agreement, within 5 working days of receiving notice from us to do so;
 - (x) become bankrupt, insolvent, or have a receiver, manager, administrator, provisional liquidator or liquidator appointed, enter into an arrangement with your creditors or if a partnership, the partnership is dissolved or application made to dissolve it;
 - (xi) vacate your premises;
 - (xii) if an individual, die; or
 - (xiii) (in the case of a Service with no Fixed Contract Period) do not use the Service for a period of at least 6 months, have a zero or negative account balance, and do not notify us that you wish to retain the Service, within 30 days of receiving notice from us of our intention to cancel.
- (f) **(Cancellation or suspension for other reasons)** We will try to give you notice beforehand, but we may cancel or suspend the Service immediately and without giving notice beforehand, if:
- (i) required by law, or to comply with a direction or order of a government authority or court;
 - (ii) a competition notice is or is likely to be issued by a government authority in connection with the Service;
 - (iii) there is an emergency;
 - (iv) we have reasonable grounds to believe there is a threat or risk to the security of the Service or integrity of the network, or the Service may cause death, personal injury or damage to property;

- (v) we are unable to supply the Service because of an Event;
- (vi) prudent or necessary to allow maintenance or repair of, or to avoid or minimise a risk to the networks and infrastructure used to supply the Service, or for other operational reasons; or
- (vii) where we supply the Service using another supplier's network or services, our supplier ceases to supply its services to us.

(g) We may cancel the Service if permitted under any other clause of the Agreement.

(h) If we suspend or restrict a Service, we may later cancel the Service for the same reason.

9.3 Effect of restriction, suspension, cancellation and termination

(a) During any period of restriction or suspension by us under clause 9.2 or requested by you, you remain responsible for all recurring Charges which will continue to be incurred and any usage based Charges incurred.

(b) If the Service is cancelled before we give you notice of Service connection, you must pay:

- (i) (except if the Service is cancelled under clause 9.1(e) or 9.2(b)(i)) our reasonable charges and all third party costs we have incurred in connection with preparing to supply the Service; and
- (ii) equipment charges in accordance with clause 9.3(d).

(c) If the Service is cancelled for any reason after we give you notice of Service connection, you must pay:

- (i) all Charges incurred for the Service including any usage based Charges whether incurred before or after the date of cancellation;
- (ii) if the Service is cancelled within a Fixed Contract Period (except under clause 9.1(e), 9.2(f), 14(c) or (d)), the applicable Break Fee; and
- (iii) equipment charges in accordance with clause 9.3(d).

(d) If any equipment you purchased from us has not been paid in full or was supplied free (including because it was purchased by instalment payments) or at a discount to our standard retail price as part of a Service with a Fixed Contract Period or otherwise, on cancellation of the Service for any reason, you must:

- (i) (except if the Service is cancelled under clause 9.1(e), 9.2(b)(i), 14(c) or (d)) pay us the unpaid balance of our standard retail price for the equipment (including the amount of any discount given); and
- (ii) if the Service is cancelled under clause 9.1(e), 9.2(b)(i), 14(c) or (d), promptly:
 - (A) return the equipment to us in good condition, fair wear and tear excepted; or
 - (B) give us notice that you wish to retain the equipment and in this case you must pay us the unpaid balance of our standard retail price for the equipment (including the amount of any discount given).

(e) Cancellation of the Service takes effect on expiry of any notice period required by the Agreement, unless we agree otherwise. On cancellation of the Service for any reason, we may disconnect the Service and you must:

- (i) immediately cease to use the Service;
- (ii) immediately cease to use and comply with your obligations in respect of Our Equipment as set out in clause 5.3(h) and in respect of any software we licensed as set out in clause 12(e)(vi); and
- (iii) pay all invoices for the Charges by the due dates.

(f) Except if required otherwise by law, or if the Service is cancelled under clause 9.1(e), 9.2(b), 14(c) or (d), we are not liable to refund any monies which you have paid in advance or prepaid. If the Service is cancelled under

clause 9.1(e), 9.2(b), 14(c) or (d), we will refund you the balance of any monies which you have paid in advance or prepaid, after you have met your obligations under clauses 9.3(b),(c),(d) and (e).

- (g) Except if required otherwise by law or as otherwise stated in this clause 9.3, we are not liable to you for any loss, cost, damage or liability in connection with suspension or cancellation of the Service by us in accordance with the Agreement.
- (h) Cancellation of one Service does not affect your contract obligations in connection with any other services we supply to you.
- (i) If we agree to reconnect a Service after suspension or cancellation in accordance with the Agreement, you may incur a reconnection fee.
- (j) If a Service is cancelled and the Agreement terminates, clause 10 (Liability) and any provision of the Agreement which is clearly intended to operate after termination will continue as will the rights and liabilities that have accrued to you or us.

10 LIABILITY

10.1 Our Liability to you

What terms apply

- (a) The only terms and conditions which apply to our supply of the Service and any other goods and services to you are the terms and conditions expressly set out in the Agreement and any rights you have at law which cannot be excluded. For example, we have obligations under the Consumer Guarantees, which may apply to the supply of goods and services to you. If you have rights and remedies under the law which cannot be excluded, nothing in the Agreement excludes those rights or remedies. We exclude any other liability we may otherwise have to you in connection with this Agreement and the Service, and we exclude all implied terms, conditions, warranties, rights, remedies.

Limiting liability for breach of Consumer Guarantee for some services

- (b) If we have obligations to you under the Consumer Guarantees which cannot be excluded, but the law allows a supplier to limit liability for a breach of those obligations, we limit our liability to replace or repair goods, resupply the services or pay the cost of replacement, repair or resupply, only if it is fair and reasonable to do so.

Interruptions or delay to the Service.

- (c) Subject to clauses 10.1(d), 10.1(e) and 10.1(i), if your use of the Service is interrupted, or connection of the Service is delayed, as a result of our fault or negligence, within a reasonable period of the interruption you can ask us to credit the amount of any recurring Charges billed to you for the affected Service for the period of the interruption or delay, unless we have an obligation under a service level to provide you a service credit in which case you can ask us to provide the service credit, and we limit our liability to you to that amount.
- (d) Except for any liability we have to you under the law which cannot be excluded, an interruption or delay to the Service is not caused by our fault or negligence, and we are not liable, if it is caused by an Excluded Incident.
- (e) If the law requires, we will also pay you compensation for any reasonably foreseeable loss you suffer as a result of interruption or delay to the Service caused by our fault or negligence. A Residential Service is intended to be used for personal, domestic or household purposes. To the full extent the law permits, we do not accept liability for any loss in connection with the use of a Residential Service for business purposes because it is not reasonably foreseeable loss.

Property Damage and Personal Injury

- (f) The limitations set out in clauses 10.1(j) and 10.1(k) do not apply to any legal liability we may have for direct loss or damage to tangible property or for personal injury or death.

Failures and delay outside our control

- (g) Except for any liability we have to you under the law which cannot be excluded, we are not liable for any delay, interruption or failure to perform an obligation under the Agreement to the extent caused by an Event.

Consequential loss

- (h) Except for any liability we have to you under the law which cannot be excluded, we exclude all liability to you for loss of profits, loss of revenue, loss of opportunity or goodwill, loss of actual or anticipated savings, loss or corruption of data, loss of any equipment value, any exemplary, punitive or special damage and any kind of indirect or consequential loss.

Your contribution to the loss

- (i) We are not liable for any loss you suffer to the extent that you or any of your officers, employees, agents or contractors caused or contributed to the loss, or to the extent caused by you failing to take reasonable steps to reduce or avoid the loss.

General limit and exclusion

- (j) Except for any liability we have to you under the law which cannot be excluded, if we do not expressly accept liability to you in connection with the Agreement or the Service under this clause 10.1, then we exclude that liability.
- (k) Except if the law requires otherwise, we limit our total cumulative liability to you in connection with the Agreement and the Service to the amount you paid us for the Service during the minimum contracted term.
- (l) The limitations and exclusions of our liability set out in this clause 10.1 are to be construed for our benefit and that of our group companies.

10.2 Your liability to us

- (a) You are liable to us for any breach of the Agreement or negligence by you according to general legal principles.

Use, Customer Equipment, information and authorisation

- (b) You must pay us the amount of any loss, cost (including legal costs), damage, expense or liability we suffer or incur in connection with:
 - (i) use of the Service, or equipment used in connection with the Service, arising from negligence, fraud or breach of the Agreement by you, your employees, agents or contractors or anyone authorised by any of them; and
 - (ii) any third party claim arising from inaccurate or incomplete information or improper authorisation provided to us or our contractors by you, your employees, agents or contractors in connection with the Service.

Failures and delay outside your control

- (c) You are not liable for any delay or failure to perform any obligation under the Agreement due to circumstances outside your reasonable control.

Our contribution to the loss

- (d) You are not liable for any loss we suffer to the extent that we or any of our officers, employees, agents or contractors caused or contributed to the loss, or to the extent caused by Our Equipment, the networks and infrastructure we or our suppliers use to supply the Service, or by us failing to take reasonable steps to reduce or avoid the loss.

Consequential loss

- (e) Except as set out in clause 10.2(b), you are not liable to us for loss of profits, loss of revenue, loss of opportunity or goodwill, loss of actual or anticipated savings, loss or corruption of data, loss of any equipment value, any exemplary, punitive or special damage and any other indirect or consequential loss.

Other

- (f) If the customer for a Service is more than one person, each of you is jointly and individually responsible for the Charges and other obligations relating to the Service.

11 PRIVACY

- (a) We collect, use and disclose your personal information as set out in our privacy policy published on our website, and as disclosed to you when we collect information from you.
- (b) If you do not provide personal information which we reasonably require, we may choose not to supply, or to cancel or suspend supply of the Service to you, or to limit or not to provide credit terms to you.
- (c) You may ask us only to send you communications about your account, the Agreement or as required by law, and not to send communications which market our services or Special Offers. You can access and update the personal information we hold about you. Please see our privacy policy on our website for information about this.

12 SOFTWARE LICENCE

- (a) This clause 12 applies if we provide you any software to use with the Service except to the extent stated otherwise in the Critical Information Summary or Service Description or agreed in writing by us.
- (b) We grant you a revocable, non-exclusive, non-transferable licence to use the software:
 - (i) if third party software, subject to the terms and conditions of the applicable third party software licence; and
 - (ii) otherwise, subject to the terms and conditions of any licence agreement packaged with the software; andto the extent there is no conflict, the terms and conditions of this clause 12.
- (c) You acknowledge and agree that we do not warrant the performance or features of the software and we are not responsible for providing any upgrades or updates for the software.
- (d) You may only use the software until cancellation of the software licence or the Service in connection with which the software is licensed.
- (e) You must:
 - (i) only use the software with the Service and in accordance with our directions;
 - (ii) comply with any restriction on the number of end users or other capacity restriction applicable to the software;
 - (iii) not copy, modify, decompile or reverse engineer the software or derive or develop other software based on the software we supply;
 - (iv) not remove or modify any copyright notice on the software;
 - (v) not sub-license, assign or otherwise transfer the right to use the software to any other person; and
 - (vi) cease to use the software on the sooner of our request or cancellation of the Service, and if we request, promptly return to us or delete or destroy all copies of the software in your possession or control.

13 TELEPHONE NUMBERS AND IP ADDRESSES

- (a) You acknowledge and agree that any telephone number used in connection with the Service is allocated and regulated by law and your right to use it may cease on cancellation of the Service (unless you transfer the telephone number to another service provider) or if the number is required by the numbering regulations to be changed. If on cancellation of the Service, you do not transfer the telephone number to another service provider, it may be issued to another customer as set out in the numbering regulations. We will not be liable for any loss, cost, expense, damage or liability you suffer in connection with loss of the right to use a telephone number or change of a telephone number, in accordance with the numbering regulations.
- (b) If we allocate an IP address to you for the Service, you must use it only connection with the Service. You do not own the IP address and your right to use it ceases on cancellation or suspension of the Service for any reason.

14 CHANGES TO THE AGREEMENT

- (a) We may make a change to the Agreement at any time and without giving you notice if:
 - (i) you agree to the change;
 - (ii) the change benefits or has a neutral impact on you; or
 - (iii) the change is necessary for security or technical reasons or required by law and in this case we will try, but do not have to give you notice of the change beforehand.
- (b) We may vary any Charge and introduce any new Charge at any time and without giving you notice (unless stated otherwise):
 - (i) for international rates or any other Charge described as variable or subject to change or similar, and for incidental charges such as credit card fees;
 - (ii) to reflect an increase in our costs of supplying the Service resulting from a regulatory decision and in this case we will give you notice within a reasonable period but may not be able to give you notice beforehand; and
 - (iii) to reflect a change in tax laws and in this case we will give you notice within a reasonable period but may not be able to give you notice beforehand.
- (c) Apart from the kinds of changes set out in clauses 14(a) and 14(b), we may make a change to the Agreement which we reasonably expect to adversely affect you by giving you reasonable notice of the change.
- (d) If you have an Agreement with a Fixed Contract Period and we give you notice of a change under clause 14(c) and you can demonstrate that the change is likely to have more than a minor detrimental impact on you during the Fixed Contract Period, you may terminate the Agreement by giving us notice 15 days before the change of agreement takes effect. You will not incur any Break Fee but you must pay other Charges as set out in clause 9.3(c).
- (e) You can only change the Agreement with our written agreement. An upgrade, downgrade, relocation or other change to the Service (if we agree) may result in revised Charges, incur additional Charges (including Break Fee), impact provisioning times and quality of service and cause interruption to the Service.

15 GENERAL

- (a) **(Complaints)** We aim to resolve complaints efficiently, fairly and courteously. For information on how to lodge complaints and how they are handled, refer to our Complaint Handling Process available from our website or by contacting our customer service team.

- (b) **(Priority Assistance Service)** We do not provide a priority assistance service for life threatening medical conditions, and we have no legal obligation to do so.
- (c) **(Authorised representative)** You can appoint an authorised representative to deal with us on your behalf as your authorised agent, by nominating that person in your order, or notifying us as we reasonably request. If you appoint an authorised representative, that person has the power to act on your behalf as if they were you, or if appointed with more limited rights, to the level of access you have allowed them. If you are a business or non-profit organisation and you do not nominate anyone, we can rely on the authority of any of your employees who tell us they have authority and you will be bound by any order, consent or direction made or given by them.
- (d) **(Advocate)** You can nominate an advocate to deal with us on your behalf, but unlike an authorised representative, your advocate has no power to act on your behalf and has no access to your account information, unless your advocate is also your authorised representative, or you are present and agree to that access or action.
- (e) **(Notices)** If the Agreement requires you or us to give notice, it must be given in writing unless otherwise specified in the Agreement. We may give you notice by mail, facsimile, by message on or sent with the bill or by email to your last known address. You can give us notice by mail, facsimile or email to our customer service team. A notice will be deemed to be received as follows: if given by normal mail on the 3rd day after posting, if given by express post on the next day after posting, if given by facsimile or email immediately when sent if during normal working hours, or if outside those hours, at 9am on the next working day.
- (f) **(Copyright & Other Intellectual Property Rights)** We do not assign or grant a licence of any copyright or other intellectual property rights to you under the Agreement. You must not use any of our trade names, trade marks, service marks, domain names or logos without our prior written consent.
- (g) **(Relationship)** We are an independent contractor to you. You are not authorised to act on our behalf or to bind us to any obligation.
- (h) **(Commissions)** You acknowledge and agree that we may at our absolute discretion pay commission to any person in connection with the Agreement.
- (i) **(Subcontractors)** We may engage other suppliers and subcontractors to perform any of our obligations under the Agreement, but we will remain responsible for their performance. We may also arrange for any of our obligations under the Agreement to be performed by any of our group companies.
- (j) **(Void terms)** If any term of the Agreement is considered void or voidable or unenforceable because of law, the rest of the Agreement will not be affected.
- (k) **(Waiver)** If you or we do not exercise any right under the Agreement, it will not be considered to waive that right or any other rights under the Agreement. If you or we waive a right under the Agreement, that waiver is effective only in the specific instance and for the specific purpose for which it is given.
- (l) **(Assignment)** You can only assign or transfer your rights or obligations under the Agreement with our prior written consent, which we must not unreasonably withhold. We can assign our rights under the Agreement to any related company, or to a purchaser of all or part of our business.
- (m) **(Governing law)** This Agreement is governed by the laws of the Australian state or territory in which you reside and the courts of that state or territory will have non-exclusive jurisdiction.

16 DICTIONARY AND INTERPRETATION

- (a) In this document, words have the meanings given them in this clause 16.

Agreement means the terms and conditions on which we supply the Service to you and is made up of these General Terms, the Service Description, the Critical Information Summary and your order.

Break Fee means the fee payable by you in respect of a Service with a Fixed Contract Period if you change a plan or if the Service is cancelled and unless stated otherwise in the Critical Information Summary, is calculated by multiplying the minimum monthly charge by the number of months remaining in the Fixed Contract Period as at the date of Service cancellation (months remaining x minimum monthly charge).

Carrier and Carriage Service Provider have the meanings given them in the Telecommunications Act 1997 (Cth).

Charges means those monies payable by you to us under the Agreement as varied in accordance with the Agreement. Charges include those set out in your order, the Critical Information Summary, the Standard Fee Table, the Special Offer (if any), and any amounts payable for rental of Our Equipment and for provision of any additional services by us.

Complaint Handling Process means our complaint handling process available on our website.

Consumer Guarantee has the meaning given in Division 1 of Part 3-2 of the Australian Consumer Law (Schedule 2 of the Competition and Consumer Act 2010 (Cth)).

Critical Information Summary means our document headed 'Critical Information Summary' which sets out charges and information related to the plan ordered for the Service.

Customer Equipment means equipment used in connection with the Service and necessary for us to supply the Service to you, other than Our Equipment and the networks and infrastructure we and our suppliers use to supply the Service to you. Customer Equipment includes cabling, telephone access lines, modems, telephone and computer equipment, software, infrastructure and services of your own, or provided to you by a third party, including all equipment you purchase from us.

Customer Service Guarantee Standard or CSG means the Telecommunications (Customer Service Guarantee) Standard 2011.

Event means any circumstance outside the reasonable control of the affected party, including act of god, fire, flood, storm, earthquake, war, riot, strike or unforeseen labour dispute, shortage of labour, equipment or materials, change of law or regulation, act or omission of any government authority including failure or delay in granting any approval or licence, electromagnetic interference, failure or variations in power supply, air conditioning or humidity control, act or omission of any of our suppliers or other third party, cable cut, failure of network, equipment, software, facilities or infrastructure owned or operated by any of our suppliers or another third party.

Excluded Incident means an interruption or delay to the Service caused directly or indirectly by:

- (i) an Event;
- (ii) any fraud, negligence or breach of the Agreement by you or any of your officers, employees, agents or contractors;
- (iii) Customer Equipment;
- (iv) Our Equipment loaned to you;
- (v) provisioning, upgrade or reconfiguring of systems or equipment requested by you;
- (vi) cancellation, suspension or restriction of the Service in accordance with the Agreement; or
- (vii) scheduled maintenance, upgrade or repair of the networks and infrastructure we and our suppliers use to supply the Service to you or Our Equipment.

Financial Hardship Policy means our financial hardship policy available on our website.

Fixed Contract Period, in respect of a Service, means the minimum contracted term (if any) specified in your order for the Service, commencing on the Start Date, but does not mean a month to month term.

General Terms means the terms and conditions set out in this document.

Network Boundary means the physical point where responsibility for the Service transfers from us to you as set out below unless stated otherwise in the Service Description:

- (i) for a fixed phone (not VOIP) or data service (including ADSL, NBN, ethernet, broadband, internet) where there is no main distribution frame (MDF) (typically a single dwelling residence), the first telephone socket we nominate inside the premises (typically the socket closest to the lead-in cable);
- (ii) for a fixed phone (not VOIP) or data service (including ADSL, NBN, Ethernet, broadband, internet) where there is a main distribution frame (MDF) (typically a business premises or a multi-storey building), the A side of the MDF where A side means the side facing externally towards the network;
- (iii) for a fixed data service where there is a Network Termination Unit (NTU), the port of the NTU which is used to supply the Service (NBN service); and
- (iv) for a VOIP phone service (where internet protocol is used to carry voice calls over a data service), the external carrier interconnect port on our core router at the edge of the network we or our suppliers use to supply the Service to you.

Our Equipment means equipment which we loan or rent to you together with any cabling or other ancillary items provided with it. For clarity, it does not include equipment you purchase from us by instalment payments or otherwise.

Residential Service means a service described as 'residential' or as intended for personal, domestic or household use or similar in a Critical Information Summary or Service Description.

Service means the service requested in your order as described in the relevant Service Description and any related equipment, software, firmware and other goods and services we supply you in connection with the Service.

Service Description means our document headed 'Service Description' which describes the Service and sets out information related to the Service.

Special Offer means a special offer or promotion we may make in relation to the Service from time to time.

Standard Fee Table means our standard fee table available on our website.

Start Date means the earlier of the date when you first use the Service and the date on which the Service is first available for use as notified by us unless stated otherwise in the Critical Information Summary or Service Description.

we, our, us means the company named on the front page of this document.

you, your means the customer whose name appears on the order.

(b) In these General Terms, unless the context requires otherwise:

- (i) headings are used for convenience only and do not affect the interpretation of the terms;
- (ii) the singular includes the plural and vice versa;
- (i) a reference to a person includes a reference to a person, corporation, firm or other legal entity;
- (iii) "including" and similar expressions are not words of limitation;
- (iv) a reference to a clause is a reference to a clause in the General Terms; and
- (v) a reference to all or any part of a statute, regulation or code (statute) includes that statute as amended, consolidated, re-enacted or replaced from time to time