

eTelecom Terms and Conditions - Standard Form of Agreement

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Your Obligations

You must pay us our Charges as summarised below.

You must ensure that you comply at all times with your obligations, including licence conditions applicable to the Services. You must not use the services to transmit or publish any material that is defamatory, in breach of copyright or obligations of confidentiality or otherwise in breach of any law. You will indemnify us for any loss or expense we suffer as a result of your doing so.

You are responsible for the maintenance of any equipment supplied by us (or any supplier) and you indemnify us for any loss or damage to the equipment unless it is due to fair wear and tear. You must ensure that our equipment and any facilities and connections used in providing the services are maintained by a person approved by us. You must provide us with reasonable access to your premises to install or maintain our equipment and you must return any equipment to us (or the relevant supplier) on termination of the services.

Other Important Information

Provision of Services

eTelecom will provide you with telecommunication services for local, national and international long distance calls and fixed line calls to mobile services, as nominated by you on the Full/Long Distance Service Application. We will provide these services using our facilities and services and those of other suppliers.

Where, in providing the services, we or a third party supplies you with equipment, you agree to maintain the equipment, grant access to us or a person approved by us to repair the equipment and to return the equipment to us or the third party on termination of the agreement.

Charges

We will advise you of the charges you will incur for the services from time to time which are also described in detail on our website at www.eTelecom.com.au.

Our charges may include connection charges, usage-based charges (including connection charges for each call and timed or untimed charges for each call), charges for content provided with the service, charges for other services provided in connection with the call, number reservation charges, reconnection charges, disconnection charges in some circumstances, dishonour fees and overdue fees, and other charges. Please call us on 1300 137 868 if you would like further details about charges for particular types of calls.

Charges may vary depending on the time of day (including peak, off-peak and economy periods), the type of customer, the origin and destination of the call, whether the call is a voice call or data call, the volume of calls made during a period and any discounts that might apply to the particular call or to the particular customer.

Unless specifically stated otherwise in the SFOA, we will bill you in advance for periodic charges, connection and service fees (where applicable) and in arrears for usage charges. We will endeavour to bill you within the next normal billing period for charges billed in arrears, but we reserve the right to bill you for those charges in later billing periods.

Billing

We will generally send you a bill monthly (by mail or email), but we have the right to send you a bill at any time and may vary the frequency of billing at our discretion.

Your bill will indicate how you are able to pay the bill. We may charge you a dishonour fee if a direct debit fails or a cheque is not honoured.

We may charge you interest at a rate 3% above the Commonwealth Bank Overdraft Reference Rate published at the beginning of the relevant month on overdue amounts not paid by the due date (and recover costs from you that we may incur in recovering such overdue amounts). We may require you to lodge a security deposit with us as a condition to providing the services, and we may from time to time set a credit limit for the provision of services to you.

You are still required to pay outstanding bills even if your services are suspended, cancelled or disconnected.

Your bill may include charges that we have incurred on your behalf from other suppliers.

Transfer of Services

We will transfer your services from your current supplier to us. The SFOA provides information for you about transferring your arrangements with your current supplier to us or transferring your arrangements with us to another supplier.

Personal Information

eTelecom collects personal information about you (including information about your credit record) to assess your application and, if approved, provide services to you. eTelecom uses your personal information to conduct ongoing credit management on your account and to carry out credit scoring and market and product analysis.

In order to provide services to you, we may disclose your personal information to other telecommunications service and equipment providers, resellers, credit providers, credit reporting agencies, organisations to whom we outsource services. If that information is not provided, eTelecom may be unable to provide the services. In most cases, you will be able to gain access to your personal information on request.

eTelecom may also use your personal information to provide you with details of other products and services. To do that, where applicable, we may disclose information to the organisations described above, to eTelecom's related bodies corporate and to eTelecom's partners and associates. They may use your personal information to provide you with details of their products and services.



Term and Termination

There is no minimum term for the provision of the services under the SFOA. Individual product Terms and Conditions override the SFOA in all cases and you are bound by these terms of service and minimum contract periods.

You may ask us to transfer the services to another supplier, and provision of the services will cease when the transfer is effective. Either of us may terminate the agreement by giving 30 days written notice to the other.

We may immediately terminate the agreement if you have breached the SFOA, become bankrupt, or insolvent, have not paid your bills as required, or where you have changed address and we are unable to locate you.

You remain liable for all charges in relation to the provision of services up to the time of termination.

Limitation of Liability

Performance of the services may be affected by matters outside of our control (such as the level of use of the services). We do not warrant the services will be free from blockage, delay or faults of any kind and, subject to the law, we will not be responsible for damages that may result.

eTelecom limits its liability to you under the SFOA. Except where specifically expressed otherwise in the SFOA and subject to the Trade Practices Act 1974, eTelecom is not liable for any loss that you may suffer.

Our liability for any breach of any term, condition, warranty or under any remedy implied by law (which cannot be excluded), is limited, at our option, to the repair or resupply of equipment or services or the payment of the cost of having the equipment or services resupplied.

SFOA

Under Telecommunications Act 1997, eTelecom is entitled to lodge a "Standard Form of Agreement" with the Australian Communications Authority setting out the terms on which eTelecom will supply certain goods and services to customers. The legislation provides that, unless you have negotiated an individual contract, the SFOA is binding on you and on eTelecom. As a customer, you are obliged to comply with the terms and conditions of the SFOA.

Customer Service Guarantee

The Australian Communications Authority Customer Service Guarantee Standard (dated 7 July 2000) provides for certain performance standards in relation to the connection and fault rectification of the standard telephone service and specified enhanced call handling features, and for the keeping of appointments made with customers for connection and fault rectification of those services.

Reporting Faults

If you experience a fault with the services we provide to you, you should contact our Customer Service Representatives and the matter will be directed to our faults handling department.

Complaints

If you have any concerns about the services we are providing to you, you should contact us immediately. We will endeavour to resolve any problem or complaint you have as quickly and effectively as possible. If you are not satisfied with the initial outcome of your complaint, the matter will be reviewed in accordance with our complaints procedures.

The Telecommunications Industry Ombudsman (TIO) can resolve disputes between the telecommunications companies and their customers. The TIO is an independent body and is provided as a free service. The TIO is an office of **last** resort. It only takes up a complaint if the customer has first tried to resolve it with the relevant company.

The Office of Fair Trading (or similar) in your State or Territory may also investigate consumer complaints.

Variations

Legislation provides that eTelecom is permitted to make certain changes to the SFOA without giving you prior notice of these changes unless the changes are detrimental to you. If the change is likely to be detrimental to you, eTelecom is required to either publish an advertisement notifying you of the change beforehand and providing written notice to you within 6 months of the change or provide you with written notice of the change before it occurs. We will determine the most appropriate course of action to take at the time any variations are made.

Standard Form of Agreement - Home Phone

We, Redmedia Solutions Pty Ltd trading as eTelecom (ABN 68 116 766 431), will provide you, our customer, with Services in accordance with these terms and conditions, the applicable charges notified to you from time to time and the eTelecom Service Application (the "Application") (collectively, the "Agreement").

1. PROVISION OF SERVICES

- 1.1. **Services:** We will provide you with the telecommunications services nominated, or assumed to be nominated, by you on the Application and other services we may agree to provide to you from time to time ("Services") on the terms of this Agreement. If you fail to nominate telecommunication services on the Application, you acknowledge that we will assume you wish to select eTelecom as your default carrier for local, national and international long distance calls and calls to mobile services. Services will only be provided if you are either a residential customer or a small to medium business customer and you meet our credit policy requirements.
- 1.2. **Provision of Services:** We will provide you with the Services for all your local, national and international long distance calls and calls to mobile services (as applicable) unless you dial another override code for long distance, international calls or calls to mobile services (as applicable) on a call by call basis. We will provide the Services using our facilities and services or those of other carriers, telecommunications service providers or equipment suppliers ("Supplier").
- 1.3. **Priority Assistance:** If you have a diagnosed life-threatening medical condition and you have nominated to receive Priority Assistance, we will provide such Priority Assistance where you have satisfied the Eligibility Criteria. For more information on Priority Assistance and Eligibility, please refer our website www.eTelecom.com.au or contact us on 1300 137 868.
- 1.4. **Variations:** We may vary any term of this Agreement at any time in writing. To the extent required by any applicable laws or determinations made by the Australian Communications Authority (ACA), we will notify you of any such variation.

2. CHARGES FOR SERVICES

- 2.1. **Invoicing:** We will bill you monthly for the Services in accordance with our current charges as notified to you from time to time. We may vary invoice frequency at our discretion.
- 2.2. **Method of Billing:** Unless otherwise expressly stated in this Agreement, we will generally bill you in advance for periodic charges, connection and service fees (where applicable) and in arrears for usage charges, although this may vary in certain cases. We will endeavour to bill you within the next normal billing period for charges billed in arrears, but we reserve the right to bill you for those charges in later billing periods.
- 2.3. **Time for Payment:** All charges must be paid by the due date shown on the invoice.
- 2.4. **When available,** we may debit amounts directly from your nominated bank or credit card account as they become owing where you have chosen that method of payment. In any event, if you have provided your bank account or credit card details, where amounts remain outstanding after 30 days we may debit those amounts from your nominated bank or credit card account without further notice unless we have received written notice from you disputing those amounts in good faith. If a direct debit fails or is rejected, we reserve the right to pass on any charges that we may incur due to the failure or rejection.
- 2.5. Our charges to you may pass on any charges another Supplier charges to us (including increases and special or one-off charges) without notice to you.
- 2.6. You will be responsible for all charges for all Services used on your account, whether the use was by you or by another person, with or without your permission.
- 2.7. **Other Charges:** You will pay us in accordance with clause 2.3 any charge which any other Supplier or other person renders to us:
 - a) if you approach that other Supplier or person directly, or otherwise than through us; or
 - b) for connection or initiation of any Service or for cancellation of any Service.
- 2.8. **Billing from other Suppliers:** If you use an override code or access code to access services offered by another Supplier, you will be billed by that Supplier for charges you incur unless we have a separate arrangement in place for the Supplier to charge us directly, in which case we will pass on the charges to you in accordance with clause 2.5.
- 2.9. **Interest:** We reserve the right to charge interest on any part of the charges not paid to us by the due date. Interest, calculated daily, will be charged from the due date until payment at a rate 3% above the Commonwealth Bank Overdraft Reference Rate published at the beginning of the month of that date.
- 2.10. **Suspension:** We reserve the right to suspend provision of Services to you, where charges owing to us or any amount owing under this clause remain outstanding after 30 days, unless we have received written notice from you disputing those charges in good faith. If we suspend or terminate the Services for unpaid charges or any other reason, subsequent reconnection may incur a reconnection fee.
- 2.11. **Unclaimed amounts:** In the event that your account is terminated and monies are owed to you by us, we will notify you of these amounts. In the event you do not claim those monies within 3 months of being notified we will retain the money and you agree that you will have no further claim in relation to those monies.
- 2.12. **Costs incurred in Recovery of Overdue Amounts:** If we incur costs in recovering overdue amounts from you, including (without limitation) mercantile agents' costs, disconnection of services costs, costs incurred in commencing legal action such as service fees and search fees, we reserve the right to recover these amounts from you in addition to the overdue amounts.
- 2.13. **Dishonoured cheques:** eTelecom reserves the right to terminate the Agreement without notice to you in the event:
 - c) you have not paid amounts owing to us in accordance with this clause; and
 - d) a cheque provided by you in payment of that invoice is dishonoured without a valid explanation being provided by you. We may also charge you a dishonour fee if a cheque used to pay a bill is dishonoured.
- 2.14. **Security Bond:** We may require you to lodge a security bond as a condition of us providing Services to you. You authorise us to deduct from that bond any amounts remaining owing to us 30 days after the date of an invoice. If you have paid all of our invoices on time for 12 consecutive months, we may either refund the bond or credit it to your account. The amount of the security bond will be no greater than the credit limit described in clause 2.15.
- 2.15. **Credit Limit:** We may from time to time set a credit limit for the provision of the Services to you. You will be notified of this credit limit and any variation to it. If you exceed this credit limit, we may restrict the Services available to you without notice.
- 2.16. **GST:** Unless expressly stated otherwise, the charges payable for the Services under this Agreement are inclusive of GST. Where the charges are expressed to be exclusive of GST, you must pay to eTelecom in addition to the charges for the Services, an amount equal to any GST payable on the supply of the Services. That additional amount is payable at the same time as any part of the charges for the Services is payable. eTelecom will issue a tax invoice to you for the supply of those Services at or before that time.

3. PERIOD OF AGREEMENT

- 3.1. Commencement of Agreement: This Agreement starts when you sign the Application or otherwise accept these terms and conditions, or when you first access our Services after receipt of these terms and conditions (whichever occurs first) and continues until terminated.
- 3.2. Commencement of Services: The provision of Services commences when your accounts are transferred from your current Supplier to us and upon completion of installation of any necessary equipment and any other arrangements with another Supplier for the provision of the Services.

4. TRANSFER OF SERVICES TO US

- 4.1. Changing your current arrangements: If in providing the Services, we need to change your arrangements with your current Supplier, then we will do so in accordance with this clause.
- 4.2. Transfer to us: By signing the Application or otherwise accepting these terms and conditions you:
 - a) acknowledge that there may be consequences as a result of transferring your existing services to us arising from your contract with your current Supplier and understand that it is your responsibility to check the terms and conditions of any existing contracts that relate to the services being transferred;
 - b) authorise us to sign on your behalf and in your name forms of authority to your current Supplier to transfer your accounts into our name; and
 - c) authorise your current Supplier of telecommunications services to transfer to us all telecommunications services relating to the telephone numbers transferred to us; and
 - d) will remain responsible for all amounts owing to your current Supplier of telecommunications services for any services they supply, or have supplied, to you.
- 4.3. Credits: If your current Supplier credits us with any amount concerning services provided before the date of transfer, we will credit that amount to your account.
- 4.4. Charges for Transferred Services: If your current Supplier raises a proper charge relating to a service it provided to you before the commencement of Services under clause 3.2, we will advise you accordingly, and you must pay your current Supplier (or us, if we include the charge in our invoice) that amount. If you dispute the amount claimed, you must notify us in writing.
- 4.5. Indemnity: We will not accept any liability for any amounts owing by you to your current Supplier for services which your current Supplier provided to you prior to the commencement of Services under clause 3.2. You must indemnify us against any claims made by your current Supplier to us in relation to any such amounts.

5. TRANSFER OF SERVICES FROM US TO ANOTHER SUPPLIER

- 5.1. Transfer: If in the future you ask us to transfer any of the Services to another Supplier, then you remain responsible to us for amounts payable prior to the transfer, and you will immediately pay us that amount on receipt of our invoice.
- 5.2. If after the transfer you elect to use any of our Services by the use of an override code, you agree to pay us for any charges incurred for those Services.
- 5.3. Termination of Services: You must notify us in accordance with clause 9.1 if you wish to terminate a Service. The provision of that Service will cease upon transfer to another Supplier.
- 5.4. Billing: We will endeavour to bill you for those Services within the next normal billing period but we reserve the right to issue subsequent invoices in relation to unbilled fees and charges.
- 5.5. Dispute: If we become aware of other proper charges (including fees payable to any other Supplier) for those Services up to the date of transfer, or we resolve any dispute so that any liability of ours relating to those Services is quantified, then you will immediately pay us all such amounts on receipt of our invoice.
- 5.6. Credits: We will credit you with any amount credited to us by another Supplier for those Services provided up to the date of transfer.

6. PERSONAL INFORMATION

- 6.1. We may collect personal information about you ("your personal information").
- 6.2. You acknowledge and agree that:
 - a) we may collect your personal information from you or (subject to the requirements of Part IIIA of the Privacy Act) from a credit provider or credit reporting agency. If we do not collect your personal information we may not be able to provide the Services to you.
 - b) we may use your personal information:
 - i) to assess any application by you for credit or commercial credit to be provided by us;
 - ii) to conduct ongoing credit management of your account, including credit checking and scoring;
 - iii) to collect payments that are overdue in respect of any credit or commercial credit provided by us;
 - iv) to provide the Services to you (including the investigation or resolution of disputes relating to any Services provided to you) and to provide credit or commercial credit to you in respect of the Services;
 - v) to provide information to you about other goods or services which we or any of our Related Bodies Corporate (or any of our partners and associates (such as telecommunication entities, providers of products, services which are related to the Services, media entities, event organisers, equipment suppliers and the suppliers of any other product or service with whom eTelecom has engaged in a joint initiative) may offer to you;
 - vi) to carry out market and product analysis; and
 - vii) as otherwise authorised or required by law.
 - c) at any time, we may disclose your personal information to a credit reporting agency:
 - i) to obtain a consumer credit or a commercial credit report about you;
 - ii) to allow the credit reporting agency to create or maintain a credit information file containing information about you. The information we disclose to a credit reporting agency will be limited to identity particulars about you, the fact that you have applied for credit and the amount, the fact that we are a current credit provider to you, loan repayments that are more than 60 days overdue and for which debt collection action has started, information that in our opinion you have committed a serious credit infringement (that is, acted fraudulently or shown an intention not to comply with your credit obligations), and cheques drawn by you for \$100 or more which have been dishonoured more than once.
 - d) we may also disclose your personal information to:
 - i) other credit providers named in a consumer credit report we obtain from a credit reporting agency about you for the purposes of:
 - A) assessing any application by you for credit or commercial credit or your credit worthiness;
 - B) notifying other credit providers of a default by you;

- C) exchanging information with other credit providers as to the status of any credit or commercial credit provided by us where you are in default with those other credit providers;
 - ii) other Suppliers for the purpose of enabling us to provide the Services to you (including the investigation and resolution of disputes or complaints concerning the provision of the Services);
 - iii) Related Bodies Corporate, our partners and associates (such as telecommunication entities, providers of products or services which are related to the Services, media entities, event organisers, equipment suppliers and the suppliers of any other product or service with whom eTelecom has engaged in a joint initiative) so that they can provide information to you about goods and services they offer or so that we can provide information to you in conjunction with them;
 - iv) government agencies or individuals appointed by a government (including the Telecommunications Industry Ombudsman and Australian Communications Authority) responsible for the investigation and resolution of disputes or complaints concerning your use of the Services for the purpose of enabling investigation and resolution of those disputes or complaints;
 - v) other entities with whom we have established or will establish an affinity program to enable you to participate in the affinity program;
 - vi) other entities who provide services to us related to the provision of the Services to you (including SMS, a mail house and resellers (or contractors engaged by resellers) to enable them to provide those services to us or administer payment arrangements in connection with those services.
- 6.3. If required by law, we will provide you with access to your personal information that we have in our possession upon request.
- 6.4. If you change your address or other billing contact details, you must notify us within 14 days

7. YOUR COMPLIANCE

- 7.1. Compliance: You will ensure that you comply at all times with all laws and obligations, including licence conditions, applicable to the Services and their use.
- 7.2. You will not use the Service to transmit or publish any material which is defamatory of any person, or any material in breach of copyright or any obligations of confidentiality, or otherwise in breach of any law, and you will indemnify us for any loss or expense we suffer as a result of you doing so.

8. EQUIPMENT SUPPLIED TO YOU

- 8.1. Maintenance: You are responsible for maintaining any equipment supplied by us or a Supplier. You indemnify us or the Supplier against any loss or damage to the equipment unless it is due to fair wear and tear.
- 8.2. Interference: You will ensure that any equipment supplied to you, facilities and connections used in providing the Services, are not altered, maintained, repaired or connected to or disconnected from any power source or line except by a person approved by us.
- 8.3. Access: We, or a person approved by us, may require access to your premises from time to time in connection with the provision and maintenance of equipment or Services. If you do not own the premises, you must obtain the owner's permission for access and warrant to us that you have such permission. You indemnify us, or any serviceman approved by us, against a claim by the owner of the premises in relation to such entry on the premises. If you do not provide access as we reasonably request, we may limit, suspend or cancel the Services.
- 8.4. Return: On the termination of this Agreement for any reason, you must return any equipment to us or the relevant Supplier, or make it available for collection, in accordance with our instructions. If you fail to return the equipment or make it available for collection:
 - a) if the equipment is ours, we may recover the value of the equipment, and the cost of recovering the equipment, from you as a debt due; or
 - b) if the equipment is a Supplier's, you must indemnify us against any claims made by the Supplier in relation to the equipment.

9. TERMINATION

- 9.1. Termination: Either of us may terminate the Agreement by giving 30 days written notice to the other.
- 9.2. Immediate Termination: We may terminate this Agreement immediately by notice to you if:
 - a) you have breached this Agreement;
 - b) a provisional liquidator, liquidator, receiver or manager or any other administrator of your business or assets is appointed or if you enter into any composition with your creditors; or
 - c) you change your address or billing contract details without notifying us in accordance with clause 6.4
- 9.3. You remain liable for all charges payable under the Agreement in respect of Services up to the time of termination and charges payable in accordance with the Terms and Conditions of the Service.
- 9.4. If you are an individual, in the event of your death, eTelecom reserves the right to terminate this Agreement without notice as soon as eTelecom becomes aware of your death. All outstanding charges under this Agreement must be paid by your estate.

10. LIMITATION OF LIABILITY

- 10.1. Performance: Because the performance of some Services may be affected by your levels of use, the levels of use of other users and of facilities related to providing the Services, we do not warrant that Services will be free of blockages, delays or faults of this kind and we will not be responsible for any loss or damage which may result.
- 10.2. Warranties: Except as provided in clause 10.1 and as required by law, and subject to clause 10.3, all terms, conditions, warranties, undertakings, inducements and representations, whether express or implied, statutory or otherwise, relating to the provision by us of the Services are excluded, and we will not be under any other liability in respect of any loss or damage (including consequential loss or damage) however caused (whether by negligence or otherwise) which may be suffered or incurred or which may arise directly or indirectly in respect of the Services.
- 10.3. Limitation of Liability: Our liability for any breach of any term, condition, warranty or under any remedy implied by law (which cannot be excluded), will be limited at our option to the repair or re-supply of equipment or Services or the payment of the cost of having the equipment or Services re-supplied.
- 10.4. No Liability: We have no liability to you or to any other person for:-
 - a) acts or defaults of other Suppliers;
 - b) faults or defects in Services which are caused to any material extent by your own conduct or misuse; or
 - c) faults or defects that arise in telecommunication services not provided under this Agreement (even if they are connected, with our consent, to Services which we have arranged under this Agreement) which are due to incompatibility with the Services.

11. CONFIDENTIALITY

- 11.1. We retain all intellectual property rights in any information relating to the Services, the design or operation of our network and other technical information relating to the provision of the Services ("Confidential Information").
- 11.2. You will keep the Confidential Information confidential, and will not allow any written or electronically recorded material to be copied.
- 11.3. On the termination of this Agreement for any reason, you will return all Confidential Information to us. If you have destroyed these, or any of them, then you will give us a written declaration accordingly.
- 11.4. You will keep confidential the manner in which we arrange Services under this Agreement, including our charges and discounts, and other financial information.
- 11.5. You will not use information which you acquire from us for any purpose unauthorised in writing by us or in any manner which may cause us loss, whether by way of damage to our reputation, financial loss or otherwise.

12. FORCE MAJEURE

- 12.1. Subject to clause 14.7, we are not liable for:
 - a) any delay in installing any Service,
 - b) any delay in correcting any fault in any Service,
 - c) failure or incorrect operation of any Service, or
 - d) any other delay or default in performance under this Agreement, if it is caused by any event reasonably beyond our control, including but not limited to war, accident, act of God, industrial action, embargo, delay or failure or default by any other Supplier.

13. ASSIGNMENT

- 13.1. You will not assign, charge or otherwise deal with your rights under this Agreement except with our prior written consent.
- 13.2. We may, on 30 days' written notice, assign all our rights and obligations under this Agreement.

14. GENERAL

- 14.1. Information: We may give to and receive from other Supplier's information about your account, including particulars of calls and call charges.
- 14.2. Governing law: This Agreement is governed by the laws of Queensland.
- 14.3. Entire Agreement: This Agreement contains the whole understanding between us to the exclusion of any prior or collateral Agreement or understanding of any kind relating to the Services.
- 14.4. No reliance: You acknowledge that you enter into this Agreement entirely as a result of your own enquiries and that you do not rely on any statement, representation or promise by us or on our behalf not expressly set out in this Agreement.
- 14.5. Release: You accordingly release us and each of our officers, agents and advisers from all claims, suits and demands of every kind (including negligence) arising from the relationship of the parties concerning this Agreement before it was signed or otherwise accepted, and from the negotiations leading to it.
- 14.6. Waiver: The failure by either party to exercise any right or remedy under this Agreement in a timely manner does not constitute acceptance of the matter which gave rise to the right or remedy, nor that party's waiver of such right or remedy.
- 14.7. Customer Service Guarantee: To the extent applicable, the Customer Service Guarantee applies to the provision of Services under this Agreement. For information on the eTelecom Customer Service Guarantee, visit the eTelecom website at www.eTelecom.com.au.
- 14.8. Standard Form of Agreement: These terms and conditions have been formulated under section 479 of the Telecommunications Act and filed with the Australian Communications Authority and will be referred to as the eTelecom Full/Long Distance Service Standard Form of Agreement.

Mobile Porting Terms and Conditions

1. Porting your mobile number to eTelecom is covered by the "Australian Communications Industry Forum, Industry Code - Mobile Number Portability ACIF C570 June 2001" ("MNP Code"), and any bilateral arrangements. Provided your mobile number is capable of being ported, you may port it from your current mobile service provider to eTelecom if that mobile number is declared portable under the ACA Numbering Plan 1997 and no exemption has been granted by the ACA. The terms of eTelecom's Mobile Standard Form of Agreement, as current, but which may vary from time to time, will apply to your use of the Service.
2. The Customer Authorisation is valid for 30 days from the date shown indicated on the Customer Authorisation form.
3. You acknowledge that:
 - a. Only your mobile number ports to eTelecom. Existing value added services (including voice mail, SMS, paging or facsimile services) provided by your current mobile service provider may be lost and new value added services will be provided by or on behalf of eTelecom.
 - b. There may be costs and obligations associated with porting your mobile number away from your current mobile service provider.
 - c. You may have an ongoing contract with your current mobile service provider which requires the payment of cancellation and/or terminations fees to that mobile service provider if you port to eTelecom.
 - d. Your current mobile service provider may or may not disconnect your existing mobile service and/or value added services.
 - e. If you are porting between GSM and CDMA or any other mobile platform, you may need to purchase a new handset.
 - f. If you intend to use your existing handset, you may need to get it unlocked or reprogrammed prior to porting. You may also need to get a new handset.
4. You can only withdraw your authority to port prior to the Port Cutover Notification being received by eTelecom from your current mobile service provider. Withdrawing your authority to port does not change your contractual obligations to eTelecom under your mobile service application.
5. eTelecom does not warrant that it can port your mobile number from your current mobile service provider. Your current mobile service provider may reject the request to port, if the information you provide is incorrect or does not match the data held by them. In this case, eTelecom reserves the right to correct the information and resubmit the request to port or dispute the rejection by your current mobile service provider. Additionally, in accordance with the MNP Code, a request to port may be rejected if:
 - a. the request is for a non-portable mobile number; eg, a cancelled mobile number.
 - b. the MNP Code requires the request to be rejected; or
 - c. eTelecom cannot otherwise provide porting for that mobile number in the circumstances.
6. If your mobile number cannot be ported then you may accept a new mobile number from eTelecom.
7. The Standard Hours of Operation under the MNP Code are AEST 8am to 8pm Monday to Friday and 10am to 6pm on Saturdays, excluding national public holidays, unless an extension of the Standard Hours is otherwise agreed under bilateral agreement between mobile service providers. Standard hours of operation may be affected by network outages or failures.
8. Acting in accordance with the MNP Code and any other bilateral agreements, in the event of a Port, Withdrawal or Reversal to your previous mobile service provider, eTelecom:
 - a. is not responsible for any period of outage of your mobile service and/or any related or ancillary services; and
 - b. does not warrant that your mobile number will be ported to eTelecom within any specified timeframe; and
 - c. to the extent permitted by law, including statutory warranties that apply under the Trade Practices Act, is not liable to you or any person claiming through you for any damage, loss, costs or expenses or other liability in contract, tort, or otherwise direct or indirect, for or in relation to the Port, Withdrawal or Reversal, including a negligent act or omission by eTelecom.
9. If you wish to port your mobile number from eTelecom to another mobile service provider, then you must contact that other provider to implement the port.
10. eTelecom reserves the right to charge for porting your mobile number to or from eTelecom. You acknowledge that eTelecom collects personal information about you to assess your application, and, if approved, provide services to you. eTelecom may disclose your personal information to other telecommunications service and equipment providers, re-sellers, credit providers, credit reporting agencies and organisations to whom eTelecom outsources services such as mail houses, but you understand that it will do this only so that eTelecom's services can be provided to you. If that information is not provided to eTelecom, it may be unable to provide services to you. You acknowledge that eTelecom may also use your personal information to provide you with details of related products and services. To do that, eTelecom may disclose information to eTelecom's related bodies corporate and its business partners and associates however, eTelecom respects your privacy and will not rent, trade or sell your personal information to list renters.

By completing and submitting the application, you consent to eTelecom so using and disclosing your personal information.



This is a summary of the terms and conditions that apply to your mobile digital telecommunications service. The full terms and conditions are contained in eTelecom Standard Form of Agreement or (SFOA), which is available on request from eTelecom by calling 1300 137 868 and at www.eTelecom.com.au. This summary does not override or change the terms and conditions of the SFOA.

Your Application is subject to acceptance by eTelecom. By submitting your Application you agree to be bound by the Standard Form of Agreement. The purpose of the Application is to establish your account. eTelecom will ask you for certain details. The acceptance of your Application will occur when your service is activated.

Important Customer Information: Your Rights and Obligations

Your Rights

You may make complaints to us about the services as summarised below.

You are entitled to ensure that we only use your personal information in accordance with the SFOA and our Privacy Policy. You may obtain a copy of our Privacy Policy at www.eTelecom.com.au or by calling us on 1300 137 868.

You may terminate the services by giving us 30 days notice in writing.

Your Obligations

You must pay us our Charges as summarised below.

You must ensure that you comply at all times with your obligations, including licence conditions applicable to the Services. You must not use the services to transmit or publish any material that is defamatory, in breach of copyright or obligations of confidentiality or otherwise in breach of any law. You will indemnify us for any loss or expense we suffer as a result of your doing so.

You are responsible for the maintenance of any equipment supplied by us (or any supplier) and you indemnify us for any loss or damage to the equipment unless it is due to fair wear and tear. You must ensure that our equipment and any facilities and connections used in providing the services are maintained by a person approved by us. You must provide us with reasonable access to your premises to install or maintain our equipment and you must return any equipment to us (or the relevant supplier) on termination of the services.

Other Important Information

Provision of Services

eTelecom will provide you with access to a digital public mobile telecommunication service using the Vodafone or Optus Networks. The service will allow you to make and receive voice calls to and from:

- Telephone numbers connected to another mobile network;
- Telephone numbers directly connected to a local exchange of Optus or Telstra;
- Other Australian public telephone numbers; and International public telephone numbers.

If you agree on your Application that you wish to be provided with Value Added and Special Services then eTelecom will supply those services to you on the terms and conditions contained in the Standard Form of Agreement.

Charges

eTelecom has a range of charging periods depending on the time of day and the day of the week on which the call is made (i.e peak; off-peak; super off-peak and flat rate). Flag Fall charges may apply to connected calls and vary according to Call Plan. To find out more information about Flag Fall charges and the charging periods that may apply to you please refer to the Standard Form of Agreement. Please call us on 1300 137 868 if you would like further details about charges for particular types of calls.

Your initial term begins when you are first connected to the eTelecom Mobile Network. If you wish to discontinue your connection at the end of the term, or at any time after your contract term, you must give us written notice. Your connection will be discontinued 30 days from the date of the next bill we send you after receiving your notice. For more information call FREECALL 1800 681 551 or dial 1551 from your eTelecom mobile handset.

If you request us to, or we validly terminate your connection within your initial contract term, you must pay us:

- The access charges for the remaining months of the contract term;
- An early termination fee as set out in the eTelecom Mobile Call Plan which forms part of the standard agreement; and
- All outstanding fees and charges payable by you for the mobile service.

There are 5 general categories of charges for the service:

- Connection/Reconnection charges;
- Monthly access charges;
- Usage charges (including call charges);
- Value-Added Services and Special Services; and
- Other charges.

You will be responsible for all service charges and for calls made from your mobile telephone as long as you are the registered customer, even if your mobile phone is not in your possession. You should contact a eTelecom Customer Service Representative immediately upon loss or theft of your mobile phone.



We will invoice you for Services in accordance with the Call Plan you have selected on your Application form. Customer discounts, credits or rebates may apply and vary according to the Call Plan. You can obtain a copy of our fees and charges and any discounts that may apply for this Call Plan from us upon request by calling a Customer Service Representative or visit our website at www.eTelecom.com.au. All fees and charges shall be inclusive of GST. We may vary these fees and charges from time to time.

Billing

eTelecom will bill you monthly. Unless otherwise agreed in writing or you have arranged to pay your invoices by direct debit or credit card, you must pay each invoice within 14 days from the date of the invoice. eTelecom reserves the right to charge you interest on overdue accounts.

Limitation of Liability

The eTelecom mobile service does not cover all areas. Our coverage map shows the general coverage area, however within the carriage area some local conditions could prevent or interfere with reception. We will endeavour to take all reasonable steps to make sure you receive the mobile service within our coverage area. However, we do not warrant that the mobile service is free from faults or interruptions. Where you send or receive information services as part of the mobile service, we do not warrant the accuracy of the information in or the security of those services.

The eTelecom Mobile SIM card remains the property of eTelecom at all times. We may charge you a SIM card replacement fee if you fail to return the SIM card within 30 days from disconnection. Please inform a customer service representative immediately if you lose or damage your SIM card. We will then endeavour to replace the SIM card however you will be responsible for all usage charges up to this time. We may charge you a SIM card replacement fee unless we were at fault.

If we have supplied a mobile phone to you together with our service, we do not warrant that the quality or the fitness of that mobile phone upon your receipt is free from faults, defects or damage. Any claims or queries relating to the quality or fitness of the mobile phone provided to you should be made under the manufacturer's warranty to the manufacturer direct.

Subject to the Trade Practices Act and other laws, eTelecom is not liable for any costs, loss, liability or damage whether direct or consequential arising out of eTelecom's supply or failure to supply services. You agree to eTelecom limiting their liability and our choice to:

- If the breach relates to goods, replacement or repair of the goods;
- If the breach relates to services, the resupply of those services or paying for the cost of having those services resupplied.

Personal Information

eTelecom collects Personal Information about you (including information about your credit record) to assess your application and, if approved, provide services to you. eTelecom uses your personal information to conduct ongoing credit management on your account and to carry out credit scoring and market and product analysis.

In order to provide services to you, we may disclose your Personal Information to other telecommunications service and equipment providers, resellers, credit providers, credit reporting agencies and organisations to whom we outsource services (such as mail houses). If that information is not provided, eTelecom may be unable to provide the services. From 21 December 2001, in most cases, you will be able to gain access to your personal information on request.

eTelecom may use your Personal Information to provide you with details of other products and services. To do that, where applicable, we may disclose information to the organisations described above, to eTelecom's related bodies corporate and to eTelecom's partners and associates. They may use your personal information to provide you with details of their products and services.

Transfer of Services

If you wish to transfer your mobile service number to another supplier then:

- You remain responsible to us for all amounts payable under the contract including early termination fees and you will pay us that amount within 7 days from being invoiced; and
- You may be liable to pay us a port out fee upon the transfer by us for the services to another supplier.

If you wish to transfer your current services to us you will be required to sign a Customer Authorisation Form:

- Authorising your current supplier of services to transfer the mobile service number to us;
- You remain responsible for all amounts owing to your current supplier of the services they supply to you;
- If you have signed a customer authorisation form to port a mobile service number to us from your previous supplier we will use all reasonable efforts to port your mobile service number by the requested date.

Customer Service Guarantee

You may have the following statutory rights:

- The Trade Practices Act 1974 (Cth) and State and Territory fair trading and consumer laws may confer certain rights and remedies on you.
- The ACA issued a Customer Service Guarantee, which establishes minimum connection, and fault times, breach of which entitles you to specified amounts of damages.

Complaints

You should direct any queries, complaints or disputes you have by writing to us or by calling a eTelecom customer service representative. If we cannot resolve your concerns to your satisfaction, you can refer those concerns on to the Telecommunications Industry Ombudsman or the ACA.



Variations

Legislation provides that eTelecom is permitted to make certain changes to the SFOA without giving you prior notice of these changes unless the changes are detrimental to you. If the change is likely to be detrimental to you, eTelecom is required to either publish an advertisement notifying you of the change beforehand and providing written notice to you within 6 months of the change or provide you with written notice of the change before it occurs. We will determine the most appropriate course of action to take at the time any variations are made.

General

You cannot assign your eTelecom agreement without our consent. We can assign or novate the agreement to our nominee without your consent.

There are certain events that may result in us suspending, reconnecting, restricting or disconnecting your mobile service. These events are set out in the Standard Form of Agreement.

Your Agreement with us is governed by the laws of the Australian State or Territory in which your address, as stated in your account, is situated.

Special Needs Customers

eTelecom offers services for special needs customers. These include:

An interpreter service for customers with language difficulties;

For hearing impaired customers, we can offer specialised equipment and you can use the National Relay Service;

An ability to liaise with customer advocates on behalf of customers who for any reason feel unable to deal with us directly; and,

A recognition of Power of Attorney.

Please contact our call centre on 1300 137 868 for further details on any of the above services.

Standard Form of Agreement – Mobile Services

We, Redmedia Solutions Pty Ltd trading as eTelecom (ABN 68 116 766 431), will provide you, our customer, with the Services in accordance with these terms and conditions, the applicable charges notified to you from time to time and the eTelecom Mobile Application (the "Application") and the Mobile Number Portability Authorisation Form (as applicable) (collectively, the "Agreement").

1. PROVISION OF SERVICES

- 1.1. Services: We will provide you with digital mobile telecommunication services and such other services as we may agree to provide to you from time to time ("Services") on the terms of this Agreement and subject to you meeting our credit policy requirements.
- 1.2. Provision of Services: We will provide the Services using our facilities and services or those of other carriers, telecommunications service providers or equipment suppliers ("Supplier"). We will provide the Services on a digital mobile telecommunications network (the "Network") for the use of the mobile telecommunications apparatus described in the Application (if any) (the "Equipment") and one or more Subscriber Identity Module cards ("SIMcard") encoded with information used to access the Services.
- 1.3. Variations: We may vary any term of this Agreement at any time in writing. To the extent required by any applicable laws or determinations made by the Australian Communications Authority (ACA), we will notify you of any such variation.

2. SIMCARDS

- 2.1. SIMcards remain the property of eTelecom. We may specify certain procedures for activation of your SIMcard to protect against unauthorised use of a SIMcard. You must take all reasonable care to keep the SIMcard safe and in good condition. You must immediately return the SIMcard to us on demand or if we suspend or terminate the Services. If you fail to return the SIMcard to us within 30 days of our demand, you must pay our standard SIMcard replacement fee.
- 2.2. You must notify us immediately if any SIMcard is lost, stolen or destroyed (whether installed or not).
- 2.3. You will be liable for all charges in relation to any SIMcard supplied to you which has been lost or stolen (whether installed in Equipment or not) until eTelecom has been notified of the loss or theft.
- 2.4. You must obtain our express authorisation (which may be conditional on lodgement of a security deposit under clause 3.13) to use the SIMcard in countries other than Australia ("Roam"). If you are authorised to Roam, you will be charged a roaming fee for incoming calls at a rate set by the operator in that country and a forwarding charge for all incoming calls forwarded to the overseas carrier.

3. CHARGES FOR SERVICES

- 3.1. Invoicing: We will bill you monthly for the Services in accordance with the call plan ("Call Plan") nominated by you on the Application and our current charges generally as notified to you from time to time. We may vary invoice frequency at our discretion.
- 3.2. Method of Billing: Unless otherwise expressly stated in this Agreement, we will bill you in advance for periodic charges, connection and service fees (where applicable) and in arrears for usage charges. We will generally send you a bill by mail or email, but on your request we may send you a bill electronically. We will endeavour to bill you within the next normal billing period for charges billed in arrears, but we reserve the right to bill you for those charges in later billing periods. For information in relation to the monthly access fee, any benefits applicable to your Call Plan, receiving bills electronically and any other promotions or special offers which may apply to your account please check your Call Plan or call us.
- 3.3. Time for Payment: All charges must be paid by the due date and in the manner shown on the invoice.
- 3.4. Direct Debit: When available, we may debit amounts directly from your nominated bank or credit card account as they become owing where you have chosen that method of payment. In any event, if you have provided your bank account or credit card details, where amounts remain outstanding after 30 days we may debit those amounts from your nominated bank or credit card account without further notice unless we have received written notice from you of a bona fide dispute of those amounts. If a direct debit fails or is rejected, we reserve the right to pass on any charges that we may incur due to the failure or rejection.
- 3.5. Other Supplier Charges: Our charges to you may pass on any charges another Supplier charges to us (including increases and special or one-off charges) without notice to you.
- 3.6. You will be responsible for all charges for all Services used on your account, whether the use was by you or by another person, with or without your permission.
- 3.7. Other Charges: You will pay us in accordance with clause 3.3 any charge which any other Supplier or other person renders to us:
 - a if you approach that other Supplier or person directly, or otherwise than through us; or
 - b for connection or initiation of any Service or for cancellation or transfer of any Service.
- 3.8. Billing from other Suppliers: If you use an override code or other means to access services offered by another Supplier, you will be billed by that Supplier for charges you incur unless we have a separate arrangement in place for the Supplier to charge us directly, in which case we will pass on the charges to you in accordance with clause 3.5.
- 3.9. Interest: We reserve the right to charge interest on any part of the charges not paid to us by the due date. Interest, calculated daily, will be charged from the due date until payment at a rate 2.5% above the prime lending rate applied by eTelecom's principal bank published at the beginning of the month of that date.
- 3.10. Suspension: We reserve the right to suspend provision of Services to you, where charges owing to us or any amount owing under this clause remain outstanding after 60 days, unless we have received written notice from you disputing those charges in good faith. If we suspend or terminate the Services for unpaid charges or any other reason, subsequent reconnection may incur a reconnection fee.
- 3.11. Unclaimed amounts: In the event that your account is terminated and monies are owed to you by us, we will notify you of these amounts. In the event you do not claim those monies within 3 months of being notified we will retain the money and you agree that you will have no further claim in relation to those monies.
- 3.12. Costs Incurred in Recovery of Overdue Amounts: If we incur costs in recovering overdue amounts from you, including (without limitation) mercantile agents' costs, disconnection of services costs, costs incurred in commencing legal action such as service fees and search fees, we reserve the right to recover these amounts from you in addition to the overdue amounts.
- 3.13. Dishonoured cheques: eTelecom reserves the right to terminate the Agreement without notice to you in the event:
 - a you have not paid amounts owing to us in accordance with this clause; and
 - b a cheque provided by you in payment of that invoice is dishonoured without a valid explanation being provided by you. We may also charge you a dishonour fee if a cheque used to pay a bill is dishonoured.
- 3.14. Security Bond: We may require you to lodge a security bond as a condition of us providing Services to you. You authorise us to deduct from that bond any amounts remaining owing to us 30 days after the date of an invoice. If you have paid all of our invoices on time for 12 consecutive months, we may either refund the bond or credit it to your account. The amount of the security bond will be no greater than the credit limit described in clause 3.15.
- 3.15. Credit Limit: We may from time to time set a credit limit for the provision of the Services to you. You will be notified of this credit limit and any variation thereof.

- 3.16. GST: Unless expressly stated otherwise, the charges payable for the Services under this Agreement are inclusive of GST. Where the charges are expressed to be exclusive of GST, you must pay to eTelecom in addition to the charges for the Services, an amount equal to any GST payable on the supply of the Services. That additional amount is payable at the same time as any part of the charges for the Services is payable. eTelecom will issue a tax invoice to you for the supply of those Services at or before that time.

4. PERIOD OF AGREEMENT

- 4.1. Commencement of Agreement: This Agreement starts when you sign the Application, or when you first access our Services after receipt of these terms and conditions (whichever occurs first) and continues until terminated.
- 4.2. Commencement of Services: The provision of Services commences when your accounts are transferred from your current Supplier to us and upon completion of installation of any necessary equipment and any other arrangements with another Supplier for the provision of the Services.

5. MOBILE NUMBER PORTING TO US

- 5.1. Changing your current arrangements: If in providing the Services to you, we need to change your arrangements with your current Supplier, then we will do so in accordance with this clause.
- 5.2. Porting your Mobile Number to us:
- a By signing the Mobile Number Portability Authorisation Form ("Port Authorisation") you:
- i) authorise us to sign on your behalf and in your name forms of authority to your current Supplier to transfer your mobile service number ("MSN") into our name;
 - ii) authorise your current Supplier of telecommunications services to transfer to us your MSN;
 - iii) authorise us to disclose information in the Port Authorisation to other Suppliers in the event of dispute over porting to us; and
 - iv) will remain responsible for all amounts owing to your current Supplier of telecommunications services for any services they supply to you and, to the extent that we become liable to a third party in relation to any services supplied to you, you will indemnify us and will keep us indemnified against any and all such liability as well as any costs including legal costs we incur in connection with any such liability.
- b If you have signed a Port Authorisation to port a MSN to us from your previous Supplier, we will use all reasonable efforts to port your MSN on or before the requested cut over date but have no liability to you for any delays in porting. The requested cut over date should not be more than 30 days from the date of making the request to port your MSN.
- c You are responsible for any charges imposed by your current Supplier in relation to unsuccessful or rejected port requests due to insufficient or incorrect information on the Port Authorisation form, concurrent competing porting requests in relation to your MSN or if you terminate the services with your current Supplier before we transfer your MSN on your nominated port cut over date.
- 5.3. Credits: If your current Supplier credits us with any amount concerning services provided before the date of transfer, we will credit that amount to your account.
- 5.4. Charges Relating to Mobile Number Porting: If another Supplier raises a proper charge with us relating to a service it provided to you before your MSN was ported to us, we will advise you accordingly and you must pay the other Supplier that amount. If you dispute the amount claimed, you must notify us in writing. You may also be liable to pay to us or your previous Supplier charges relating to disputes or investigations by either of us arising out of transfer of the Services from another Supplier to us. We reserve the right to charge a port in fee for porting your MSN to us from another Supplier.
- 5.5. Indemnity: We will not accept any liability for any amounts owing by you to another Supplier for services which the other Supplier provided to you prior to the commencement of Services under clause 4.2. You must indemnify us against any claims made on us by your previous Supplier in relation to any such amounts.

6. PORTING OF MOBILE NUMBER TO ANOTHER SUPPLIER

- 6.1. Port-Out: If you port your MSN to another Supplier, then:(a)(a) you remain responsible to us for amounts payable prior to the port out, and you will immediately pay us that amount on receipt of our invoice; and(b)(b) you may be liable to pay to us a port-out fee on porting of your MSN to another Supplier.
- 6.2. Payment for retained services: If after the transfer you elect to use any of our Services by the use of an override code or otherwise, you agree to pay us for any charges incurred for those Services.
- 6.3. Termination of Services: The provision of Services ceases and this Agreement terminates when we port your MSN to another Supplier. If you port to another Supplier before the end of the agreed minimum contract term, you will be liable to pay to us the termination charges set out in clause 10.3 in addition to any port-out fee which may be payable.
- 6.4. Billing: We will endeavour to bill you for amounts in respect of the Services incurred until termination and any charges arising out of termination within the next normal billing period but we reserve our right to issue you with subsequent invoices in relation to unbilled fees and charges.
- 6.5. Dispute: If we become aware of other proper charges (including fees payable to any other Supplier) for those Services up to the date of porting, or we resolve any dispute so that any liability of ours relating to those Services is quantified, then you will immediately pay us all such amounts on receipt of our invoice.
- 6.6. Credits: We will credit you with any amount credited to us by another Supplier for those Services provided up to the date of porting.

7. PERSONAL INFORMATION

- 7.1. We may collect personal information about you ("your personal information").
- 7.2. You acknowledge and agree that:
- a we may collect your personal information from you or (subject to the requirements of Part IIIA of the Privacy Act) from a credit provider or credit reporting agency. If we do not collect your personal information we may not be able to provide the Services to you.
- b we may use your personal information:
- i) to assess any application by you for credit or commercial credit to be provided by us;
 - ii) to conduct ongoing credit management of your account, including credit checking and scoring;
 - iii) to collect payments that are overdue in respect of any credit or commercial credit provided by us;
 - iv) to provide the Services to you (including the investigation or resolution of disputes relating to any Services provided to you) and to provide credit or commercial credit to you in respect of the Services;
 - v) to provide information to you about other goods or services which we or any of our Related Bodies Corporate or any of our partners and associates (such as telecommunication entities, providers of products or services which are related to the Services, media entities, event organisers, equipment suppliers and the suppliers of any other product or service with whom eTelecom has engaged in a joint initiative) may offer to you;
 - vi) to carry out market and product analysis; and

- vii) as otherwise authorised or required by law.
- c at any time, we may disclose your personal information to a credit reporting agency:
 - i) to obtain a consumer credit or a commercial credit report about you;
 - ii) to allow the credit reporting agency to create or maintain a credit information file containing information about you. The information we disclose to a credit reporting agency will be limited to identity particulars about you, the fact that you have applied for credit and the amount, the fact that we are a current credit provider to you, loan repayments that are more than 60 days overdue and for which debt collection action has started, information that in our opinion you have committed a serious credit infringement (that is, acted fraudulently or shown an intention not to comply with your credit obligations), and cheques drawn by you for \$100 or more which have been dishonoured more than once.
- d we may also disclose your personal information to:
 - i) other credit providers named in a consumer credit report we obtain from a credit reporting agency about you for the purposes of:
 - A) assessing any application by you for credit or commercial credit or your credit worthiness;
 - B) notifying other credit providers of a default by you; and
 - C) exchanging information with other credit providers as to the status of any credit or commercial credit provided by us where you are in default with those other credit providers;
 - ii) other Suppliers for the purpose of enabling us to provide the Services to you (including the investigation and resolution of disputes or complaints concerning the provision of the Services);
 - iii) Related Bodies Corporate, our partners and associates (such as telecommunication entities, providers of products or services which are related to the Services, media entities, event organisers, equipment suppliers and the suppliers of any other product or service with whom eTelecom has engaged in a joint initiative) so that they can provide information to you about goods and services they offer or so that we can provide information to you in conjunction with them;
 - iv) government agencies or individuals appointed by a government (including the Telecommunications Industry Ombudsman and Australian Communications Authority) responsible for the investigation and resolution of disputes or complaints concerning your use of the Services for the purpose of enabling investigation and resolution of those disputes or complaints;
 - v) other entities with whom we have established or will establish an affinity program to enable you to participate in the affinity program;
 - vi) other entities who provide services to us related to the provision of the Services to you (including SMS, a mail house and resellers (or contractors engaged by resellers) to enable them to provide those services to us or administer payment arrangements in connection with those services.

7.3. If required by law, we will provide you with access to your personal information that we have in our possession upon request.

7.4. If you change your address or other billing contact details, you must notify us within 14 days.

7.5. Calling number display: Calling number display will be automatically activated on commencement of the Services. If you do not want your number displayed, it is your responsibility to deactivate this functionality.

7.6. New Services: In relation to the use of Services which incorporate new technologies including WAP, SMS text and other value added services offered by eTelecom for use on mobile telephones from time to time, you are wholly responsible for the security and use of your mobile telephone and indemnify eTelecom against all claims which may arise through your use of these services.

8. YOUR COMPLIANCE

8.1. Compliance: You will ensure that you comply at all times with all laws and obligations, including licence conditions, applicable to the Services and their use.

8.2. You will not use the Service to transmit or publish any material which is defamatory of any person, or any material in breach of copyright or any obligations of confidentiality, or otherwise in breach of any law, and you will indemnify us for any loss or expense we suffer as a result of you doing so.

9. SUSPENSION OF SERVICES

9.1. We may from time to time and without notice or liability to you suspend any of the Services (and at our discretion disconnect the relevant SIMcards from the Network) in any of the following circumstances:

- a during any technical failure, modification or maintenance of the Network (but in that event we will procure resumption of the Services as soon as reasonably practicable);
- b if you fail to comply with any of these terms and conditions (including failure to pay charges due) until the breach (if capable of remedy) is remedied,
- c if you do, or allow to be done, anything which in our reasonable opinion may have the effect of jeopardising the operation of those Services; or
- d if the amount outstanding under this Agreement at any time (whether or not its payment has fallen due) exceeds the credit limit set by us under clause 3.14.

9.2. Notwithstanding any suspension of the Services under this clause you shall remain liable for all charges due hereunder throughout the period of suspension (including without limitation all monthly access fees, and regardless of whether or not any SIMcard has been disconnected from the Network) unless we in our sole discretion determine otherwise.

10. TERMINATION

10.1. Termination: Either of us may terminate the Agreement by giving 30 days written notice to the other.

10.2. Immediate Termination: We may terminate this Agreement immediately by notice to you if:

- a you have breached this Agreement;
- b become bankrupt, or a provisional liquidator, liquidator or receiver or receiver and manager or any other administrator of your business or assets is appointed or if you enter into any composition with your creditors; or
- c you change your address or billing contact details without notifying us in accordance with clause 7.4.

10.3. Term contracts: If we have agreed to provide a Service to you for a particular term ("Term") and you terminate before the end of the Term, then you will be liable to pay to us:

- a the whole contract amount quoted to you at the commencement of the Term in respect of the provision of the Services throughout the Term;
- b an early termination fee; and
- c any outstanding charges, constitute a debt owing to us at the time of early termination of this Agreement.

10.4. You remain liable for all charges payable under the Agreement in respect of Services up to the time of termination.

10.5. If you are an individual, in the event of your death, eTelecom reserves the right to terminate this Agreement without notice as soon as eTelecom becomes aware of your death. All outstanding charges under this Agreement must be paid by your estate.

11. LIMITATION OF LIABILITY

- 11.1. Performance: Because the performance of some Services may be affected by your levels of use, the levels of use of other users and of facilities related to providing the Services, we do not warrant that Services will be free of blockages, delays, network congestion, interference or faults of this kind and we will not be responsible for any loss or damage which may result. You acknowledge that you are responsible for inquiring whether mobile coverage is available in areas in which you will ordinarily require the Service.
- 11.2. Warranties: Except as provided in clause 11.1 and as required by law, and subject to clause 11.3, all terms, conditions, warranties, undertakings, inducements and representations, whether express or implied, statutory or otherwise, relating to the provision by us of the Services are excluded, and we will not be under any other liability in respect of any loss or damage (including consequential loss or damage) however caused (whether by negligence or otherwise) which may be suffered or incurred or which may arise directly or indirectly in respect of the Services.
- 11.3. Limitation of Liability: Our liability for any breach of any term, condition, warranty or under any remedy implied by law (which cannot be excluded), will be limited at our option to the repair or re-supply of equipment or Services or the payment of the cost of having the equipment or Services re-supplied.
- 11.4. No Liability: We have no liability to you or to any other person for:
 - a acts or defaults of other Suppliers;
 - b faults or defects in Services which are caused to any material extent by your own conduct or misuse; or
 - c faults or defects that arise in telecommunication services not provided under this Agreement (even if they are connected, with our consent, to Services which we have arranged under this Agreement) which are due to incompatibility with the Services.
- 11.5. We have no liability to you or any other person for:
 - a porting of your MSN in accordance with a porting request received by us; or
 - b any delays in implementing a request to port your MSN; or
 - c a failure to implement a request to port your MSN.

12. CONFIDENTIALITY

- 12.1. We or the Supplier retain all intellectual property rights in any information relating to the Services, the design or operation of the Network and other technical information relating to the provision of the Services ("Confidential Information").
- 12.2. You will keep the Confidential Information confidential, and will not allow any written or electronically recorded material to be copied.
- 12.3. On the termination of this Agreement for any reason, you will return all Confidential Information to us. If you have destroyed these, or any of them, then you will give us a written declaration accordingly.
- 12.4. You will keep confidential the manner in which we arrange Services under this Agreement, including our charges and discounts, and other financial information.
- 12.5. You will not use information which you acquire from us for any purpose unauthorised in writing by us or in any manner which may cause us loss, whether by way of damage to our reputation, financial loss or otherwise.

13. FORCE MAJEURE

- 13.1. We are not liable for:
 - a any delay in installing any Service;
 - b any delay in correcting any fault in any Service;
 - c failure or incorrect operation of any Service; or
 - d any other delay or default in performance under this Agreement, if it is caused by any event reasonably beyond our control, including but not limited to war, accident, act of God, industrial action, embargo, delay or failure or default by any other Supplier.

14. ASSIGNMENT

- 14.1. You will not assign, charge or otherwise deal with your rights under this Agreement except with our prior written consent.
- 14.2. We may, on 30 days' written notice, assign all our rights and obligations under this Agreement.

15. GENERAL

- 15.1. Information: We may give to and receive from other Suppliers information about your account, including particulars of calls and call charges.
- 15.2. Governing law: This Agreement is governed by the laws of New South Wales.
- 15.3. Entire Agreement: This Agreement contains the whole understanding between us to the exclusion of any prior or collateral Agreement or understanding of any kind relating to the Services.
- 15.4. No reliance: You acknowledge that you enter into this Agreement entirely as a result of your own enquiries and that you do not rely on any statement, representation or promise by us or on our behalf not expressly set out in this Agreement.
- 15.5. Release: You accordingly release us and each of our officers, agents and advisers from all claims, suits and demands of every kind (including negligence) arising from the relationship of the parties concerning this Agreement before it was signed, and from the negotiations leading to it.
- 15.6. Waiver: The failure by either party to exercise any right or remedy under this Agreement in a timely manner does not constitute acceptance of the matter which gave rise to the right or remedy, nor that party's waiver of such right or remedy.
- 15.7. Standard Form of Agreement: These terms and conditions have been formulated under section 479 of the Telecommunications Act and filed with the Australian Communications Authority and will be referred to as the eTelecom's Mobile Services Standard Form of Agreement.
- 15.8. Disability Assistance: eTelecom offers the following services for special needs customers:
 - a Language difficulties - If you have language difficulties, eTelecom uses the Australian Translating and Interpreting Service which can provide an interpreter for you. You (or a nominated person who can speak English) need to inform the call centre of your language need and the call centre person will arrange for the interpreter.
 - b Hearing Impaired - If you have a hearing impairment you should contact the National Relay Service who can assist you to make your call to eTelecom. The National Relay Service has different numbers for different needs and you should consult your Directory to obtain the number to meet your needs.
 - c Specialised Equipment - In certain circumstances, eTelecom can provide specialised equipment to assist you with special needs, such as hearing impairment. There are Eligibility Criteria and you should contact us on 1300 137 868 to discuss your requirements.
 - d Advocates - If you have any difficulty in explaining your situation to our call centre staff, for example you are in financial difficulties, you have the option to obtain the services of a customer advocate who will act on your behalf. Please consult your Directory to obtain an advocate who can meet your needs. You must be in a position to give authority to the call centre representative to discuss your needs with the customer advocate. This authority can be given either verbally or in writing.
 - e Power of Attorney - eTelecom recognises Power of Attorneys. You need to fax the Power of Attorney to eTelecom and the account number and name to which it applies. We will note on our system that you have a Power of Attorney over that account.

Standard Form of Agreement - Pre-paid Mobile Services

We, Redmedia Solutions Pty Ltd trading as eTelecom (ABN 68 116 766 431), will provide you, our Customer, with the Services in accordance with these terms and conditions, the applicable charges notified to you from time to time and the eTelecom Mobile Application (the "Application") and the Mobile Number Portability Authorisation Form (as applicable) (collectively, the "Agreement").

1. PROVISION OF SERVICES

- 1.1. Services: eTelecom will provide you with pre-paid digital mobile telecommunication services and such other services as eTelecom may agree to provide to you from time to time ("Services") on the terms of this Agreement.
- 1.2. Provision of Services: eTelecom will provide the Services using our facilities and services or those of other carriers, telecommunications service providers or equipment suppliers ("Supplier"). eTelecom will provide the Services on a digital mobile telecommunications network (the "Network") for the use of the mobile telecommunications apparatus described in the Application (if any) (the "Equipment") and one or more Subscriber Identity Module cards ("SIMcard") encoded with information used to access the Services.
- 1.3. Variations: To the extent permitted by law, eTelecom may change a Supplier or its products, or vary our charges from time to time without notice to you. Otherwise, eTelecom may vary these terms on 30 days written notice to you.

2. SIMCARDS

- 2.1. SIMcards remain the property of eTelecom. eTelecom may specify certain procedures for activation of your SIMcard to protect against unauthorised use of a SIMcard. You must take all reasonable care to keep the SIMcard safe and in good condition. You must immediately return the SIMcard to us on demand or if eTelecom suspend or terminate the Services. If you fail to return the SIMcard to us within 30 days of our demand, you must pay our standard SIMcard replacement fee.
- 2.2. You must notify us immediately if any SIMcard is lost, stolen or destroyed (whether installed or not).
- 2.3. You will be liable for all charges in relation to any SIMcard supplied to you which has been lost or stolen (whether installed in Equipment or not) until eTelecom has been notified of the loss or theft.
- 2.4. You must obtain our express authorisation to use the SIMcard in countries other than Australia ("Roam"). If you are authorised to Roam, you will be charged a roaming fee for incoming calls at a rate set by the operator in that country and a forwarding charge for all incoming calls forwarded to the overseas carrier.

3. PERIOD OF AGREEMENT AND CHARGES FOR SERVICES

- 3.1. This Agreement starts when you purchase and are provided with an eTelecom pre-paid pack. This Agreement terminates when you are Disconnected from the eTelecom mobile Network.
- 3.2. When you first connect to the eTelecom mobile Network, you will be charged for the use of the Service in accordance with the eTelecom pre-paid call rates listed at www.eTelecom.com.au. eTelecom may vary the rate of fees and charges for the Service, including the extra charges, from time to time.
- 3.3. When you activate and register your eTelecom pre-paid pack, your account will be credited with Initial Credits.
- 3.4. When you activate and register your eTelecom pre-paid pack, you will also receive an initial Access Period of 180 days. Once your Initial Credits are used and unless you Recharge your eTelecom pre-paid account, you can only use the eTelecom service to make emergency service calls and receive calls for any remaining Access Period.
- 3.5. Recharging:
 - a. You can Recharge by purchasing and activating a Recharge Pin.
 - b. The Recharge Pin must be activated to allow you to add call credits (Call Credits) to your eTelecom pre-paid account balance. The Call Credits are subject to a Call Credit Expiry Period, during which you are able to use the eTelecom mobile service.
 - c. eTelecom will credit your eTelecom pre-paid account balance with the value of the Recharge Pin. The Recharge Pin is also subject to an activation expiry period (Recharge Expiry Period) during which you must activate the PIN.
 - d. Once the Call Credit Expiry Period expires and unless you add further credits to your eTelecom pre-paid account, you can only use the eTelecom service to make emergency service calls and receive calls for 30 days. If you don't Recharge during these 30 days then your account and this Agreement will terminate and you will be Disconnected.
- 3.6. If you lose or permit another person to use the SIMcard, eTelecom may use the credits in your eTelecom pre-paid account balance to pay for the charges incurred by that person.
- 3.7. To make a call you need to ensure that their eTelecom pre-paid account balance contains sufficient Initial Credits or Call Credits to cover the cost of the call. eTelecom will terminate a call if you do not have sufficient Initial Credits or Call Credits to cover the cost of the call. At the end of the Access Period or Call Credit Expiry Period your eTelecom pre-paid account balance will automatically reduce to zero. Initial Credits and Call Credits are not refundable.
- 3.8. eTelecom will not accept any Recharge if it will increase a your eTelecom pre-paid account balance above \$225.
- 3.9. GST: Unless expressly stated otherwise, the charges payable for the Services under this Agreement are inclusive of GST. Where the charges are expressed to be exclusive of GST, you must pay to eTelecom in addition to the charges for the Services, an amount equal to any GST payable on the supply of the Services. That additional amount is payable at the same time as any part of the charges for the Services is payable.

4. MOBILE NUMBER PORTING TO US

- 4.1. Changing your current arrangements: If in providing the Services to you, eTelecom need to change your arrangements with your current Supplier, then eTelecom will do so in accordance with this clause.
- 4.2. Porting your Mobile Number to us: If you wish to transfer your current MSN to us you will be required to complete the Customer Authorisation process with an eTelecom customer service representative by calling 0410 000 887:
 - a. You will remain responsible for all amounts owing to your current Supplier of telecommunications services for any services they supply to you and, to the extent that eTelecom become liable to a third party in relation to any services supplied to you, you will indemnify us and will keep us indemnified against any and all such liability as well as any costs including legal costs eTelecom incur in connection with any such liability.
 - b. eTelecom will use all reasonable efforts to port your MSN on or before the requested cut over date but have no liability to you for any delays in porting. The requested cut over date should not be more than 30 days from the date of making the request to port your MSN.
 - c. You are responsible for any charges imposed by your current Supplier in relation to unsuccessful or rejected port requests due to insufficient or incorrect information provided to the eTelecom customer service representative, concurrent competing porting requests

in relation to your MSN or if you terminate the services with your current Supplier before eTelecom transfer your MSN on your nominated port cut over date (as advised by the eTelecom customer service representative).

- 4.3. Credits: If your current Supplier credits us with any amount concerning services provided before the date of transfer, eTelecom will credit that amount to your account.
- 4.4. Charges Relating to Mobile Number Porting: If another Supplier raises a proper charge with us relating to a service it provided to you before your MSN was ported to us, eTelecom will advise you accordingly and you must pay the other Supplier that amount. If you dispute the amount claimed, you must notify us in writing. You may also be liable to pay to us or your previous Supplier charges relating to disputes or investigations by either of us arising out of transfer of the Services from another Supplier to us. eTelecom reserves the right to charge a port in fee for porting your MSN to us from another Supplier.
- 4.5. Indemnity: eTelecom will not accept any liability for any amounts owing by you to another Supplier for services which the other Supplier provided to you prior to the commencement of Services under clause 4.2. You must indemnify us against any claims made on us by your previous Supplier in relation to any such amounts.

5. PORTING OF MOBILE NUMBER TO ANOTHER SUPPLIER

- 5.1. Port-Out: If you port your MSN to another Supplier, then:
 - a you remain responsible to us for amounts payable prior to the port out; and
 - b you may be liable to pay to us a port-out fee on porting of your MSN to another Supplier.
- 5.2. Termination of Services: The provision of Services ceases and this Agreement terminates when eTelecom port your MSN to another Supplier.
- 5.3. Credits: eTelecom will credit you with any amount credited to us by another Supplier for those Services provided up to the date of porting.

6. PERSONAL INFORMATION

- 6.1. eTelecom may collect personal information about you ("your personal information").
- 6.2. You acknowledge and agree that:
 - a eTelecom may collect your personal information from you or (subject to the requirements of Part IIIA of the Privacy Act) from a credit provider or credit reporting agency. The ACA requires us to collect certain identifying information about you before the Service is activated. If eTelecom do not collect your personal information eTelecom may not be able to provide the Services to you.
 - b eTelecom may use your personal information:
 - i) to provide the Services to you (including the investigation or resolution of disputes relating to any Services provided to you);
 - ii) to provide information to you about other goods or services which eTelecom or any of our Related Bodies Corporate, AOL Australia Pty Limited or its Related Bodies Corporate or any of our partners and associates (such as telecommunication entities, providers of products or services which are related to the Services, media entities, event organisers, equipment suppliers and the suppliers of any other product or service with whom eTelecom has engaged in a joint initiative) may offer to you; and
 - iii) as otherwise authorised or required by law.
- 6.3. eTelecom may disclose your personal information to:
 - a other Suppliers for the purpose of enabling us to provide the Services to you (including the investigation and resolution of disputes or complaints concerning the provision of the Services);
 - b Related Bodies Corporate, AOL Australia Pty Limited or its Related Bodies Corporate, our partners and associates (such as telecommunication entities, providers of products or services which are related to the Services, media entities, event organisers, equipment suppliers and the suppliers of any other product or service with whom eTelecom has engaged in a joint initiative) so that they can provide information to you about goods and services they offer;
 - c government agencies or individuals appointed by a government (including the Telecommunications Industry Ombudsman and ACA) responsible for the investigation and resolution of disputes or complaints concerning your use of the Services for the purpose of enabling investigation and resolution of those disputes or complaints;
 - d other entities with whom eTelecom have established or will establish an affinity program to enable you to participate in the affinity program;
 - e other entities who provide services to us related to the provision of the Services to you (including SMS, a mail house and resellers (or contractors engaged by resellers) to enable them to provide those services to us or administer payment arrangements in connection with those services.
- 6.4. If required by law, eTelecom will provide you with access to your personal information that eTelecom have in our possession upon request.
- 6.5. Calling number display: Calling number display will be automatically activated on commencement of the Services. If you do not want your number displayed, it is your responsibility to deactivate this functionality.
- 6.6. New Services: In relation to the use of Services which incorporate new technologies including WAP, SMS text and other value added services offered by eTelecom for use on mobile telephones from time to time, you are wholly responsible for the security and use of your mobile telephone and indemnify eTelecom against all claims which may arise through your use of these services.

7. YOUR COMPLIANCE

- 7.1. Compliance: You will ensure that you comply at all times with all laws and obligations, including licence conditions, applicable to the Services and their use.
- 7.2. You will not use the Service to transmit or publish any material which is defamatory of any person, or any material in breach of copyright or any obligations of confidentiality, or otherwise in breach of any law, and you will indemnify us for any loss or expense eTelecom suffer as a result of you doing so.

8. SUSPENSION AND DISCONNECTION OF SERVICES

- 8.1. eTelecom may from time to time and without notice or liability to you suspend or disconnect any of the Services (and at our discretion disconnect the relevant SIMcards from the Network) in any of the following circumstances:
 - a during any technical failure, modification or maintenance of the Network (but in that event eTelecom procure resumption of the Services as soon as reasonably practicable);
 - b if you fail to comply with any of these terms and conditions until the breach (if capable of remedy) is remedied,
 - c if you do, or allow to be done, anything which in eTelecom's reasonable opinion may have the effect of jeopardising the operation of those Services;
 - d if you inform eTelecom that they have lost or damaged your SIM card;
 - e if you do not begin a new Call Credit Expiry Period by the end of the previous Call Credit Expiry Period;
 - f if you do not provide eTelecom with the required information under this Agreement;
 - g eTelecom suspects on reasonable grounds that its record of information about you contains incorrect information;
 - h eTelecom is required to do so by law or an authority, such as the ACA, requires eTelecom mobile to do so; or

- 8.2. eTelecom can permanently disconnect you from the eTelecom mobile Network if:
- a You do not begin a new Access Period before the Grace Period ends;
 - b eTelecom has an incomplete record of information about you and you fail to provide eTelecom mobile with the relevant details upon eTelecom's request;
 - c You have not done what you have promised eTelecom you would do, even after eTelecom has given you seven extra days to do so;
 - d You do anything which eTelecom believes can damage the eTelecom Network;
 - e eTelecom believes that you have used the Service to commit unauthorised, criminal or unlawful activities;
 - f a criminal law-enforcement agency asks eTelecom to disconnect you because it has a suspicion on reasonable grounds that you have used, or are likely to use, the Service to engage in criminal conduct;
 - g the Disconnection is reasonably necessary to enforce the criminal laws or laws imposing pecuniary penalties, protect the public revenue or safeguard national security;
 - h an authority, such as the ACA, requires eTelecom to do so.
- 8.3. When Disconnected from the eTelecom mobile Network:
- a you no longer has the right to use their mobile phone number;
 - b you must immediately return the SIM card to eTelecom; and
 - c as Call Credits are not redeemable for cash, you forfeit your eTelecom Pre-Paid account balance.

9. TERMINATION

- 9.1. Termination: Either of us may terminate the Agreement by giving 30 days written notice to the other.
- 9.2. Immediate Termination: eTelecom may terminate this Agreement immediately by notice to you if you have breached this Agreement;
- 9.3. You remain liable for all charges payable under the Agreement in respect of Services up to the time of termination.
- 9.4. If you are an individual, in the event of your death, eTelecom reserves the right to terminate this Agreement without notice as soon as eTelecom becomes aware of your death. All outstanding charges under this Agreement must be paid by the your estate.

10. LIMITATION OF LIABILITY

- 10.1. Performance: Because the performance of some Services may be affected by your levels of use, the levels of use of other users and of facilities related to providing the Services, eTelecom do not warrant that Services will be free of blockages, delays, network congestion, interference or faults of this kind and eTelecom will not be responsible for any loss or damage which may result. You acknowledge that you are responsible for inquiring whether mobile coverage is available in areas in which you will ordinarily require the Service.
- 10.2. Warranties: Except as provided in clause 11.1 and as required by law, and subject to clause 11.3, all terms, conditions, warranties, undertakings, inducements and representations, whether express or implied, statutory or otherwise, relating to the provision by us of the Services are excluded, and eTelecom will not be under any other liability in respect of any loss or damage (including consequential loss or damage) however caused (whether by negligence or otherwise) which may be suffered or incurred or which may arise directly or indirectly in respect of the Services.
- 10.3. Limitation of Liability: Our liability for any breach of any term, condition, warranty or under any remedy implied by law (which cannot be excluded), will be limited at our option to the repair or re-supply of equipment or Services or the payment of the cost of having the equipment or Services re-supplied.
- 10.4. No Liability: eTelecom have no liability to you or to any other person for:-
- a acts or defaults of other Suppliers;
 - b faults or defects in Services which are caused to any material extent by your own conduct or misuse; or
 - c faults or defects that arise in telecommunication services not provided under this Agreement (even if they are connected, with our consent, to Services which eTelecom have arranged under this Agreement) which are due to incompatibility with the Services.
- 10.5. eTelecom have no liability to you or any other person for:
- a porting of your MSN in accordance with a porting request received by us; or
 - b any delays in implementing a request to port your MSN; or
 - c a failure to implement a request to port your MSN.

11. CONFIDENTIALITY

- 11.1. eTelecom or the Supplier retain all intellectual property rights in any information relating to the Services, the design or operation of the Network and other technical information relating to the provision of the Services ("Confidential Information").
- 11.2. You will keep the Confidential Information confidential, and will not allow any written or electronically recorded material to be copied.
- 11.3. On the termination of this Agreement for any reason, you will return all Confidential Information to us. If you have destroyed these, or any of them, then you will give us a written declaration accordingly.
- 11.4. You will keep confidential the manner in which eTelecom arrange Services under this Agreement, including our charges and discounts, and other financial information.
- 11.5. You will not use information which you acquire from us for any purpose unauthorised in writing by us or in any manner which may cause us loss, whether by way of damage to our reputation, financial loss or otherwise.

12. FORCE MAJEURE

- 12.1. eTelecom are not liable for:
- a any delay in installing any Service;
 - b any delay in correcting any fault in any Service;
 - c failure or incorrect operation of any Service; or
 - d any other delay or default in performance under this Agreement, if it is caused by any event reasonably beyond our control, including but not limited to war, accident, act of God, industrial action, embargo, delay or failure or default by any other Supplier.

13. ASSIGNMENT

- 13.1. You will not assign, charge or otherwise deal with your rights under this Agreement except with eTelecom's prior written consent.
- 13.2. eTelecom may, on 30 days' written notice, assign all eTelecom's rights and obligations under this Agreement.

14. GENERAL

- 14.1. Information: eTelecom may give to and receive from other Suppliers information about your account, including particulars of calls and call charges.
- 14.2. Governing law: This Agreement is governed by the laws of New South Wales.
- 14.3. Entire Agreement: This Agreement contains the whole understanding between you and eTelecom to the exclusion of any prior or collateral Agreement or understanding of any kind relating to the Services.
- 14.4. No reliance: You acknowledge that you enter into this Agreement entirely as a result of your own enquiries and that you do not rely on any statement, representation or promise by eTelecom or on eTelecom's behalf not expressly set out in this Agreement.
- 14.5. Release: You accordingly release eTelecom and each of eTelecom's officers, agents and advisers from all claims, suits and demands of every kind (including negligence) arising from the relationship of the parties concerning this Agreement before it was signed, and from the negotiations leading to it.
- 14.6. Waiver: The failure by either party to exercise any right or remedy under this Agreement in a timely manner does not constitute acceptance of the matter which gave rise to the right or remedy, nor that party's waiver of such right or remedy.
- 14.7. Standard Form of Agreement: These terms and conditions have been formulated under section 479 of the Telecommunications Act and filed with the Australian Communications Authority and will be referred to as the eTelecom Mobile Services Standard Form of Agreement (Pre-Paid).

15. AGREEMENT

15.1. Definitions:

eTelecom Group means eTelecom and its Related Bodies Corporate

eTelecom Network means a network operated by eTelecom to provide the Service.

eTelecom pre-paid pack means the starter pack and package of goods which enables a Customer to use the Service and includes a SIM card, a user guide and may include a mobile handset.

ACA means the Australian Communications Authority.

Act means the Telecommunications Act 1997.

Access Period means the time between the date a Customer Recharges and the Call Credit Expiry Period during which a Customer can use the Service, Agreement means this Standard Form of Agreement and any other documents validly incorporated by reference.

Application means the "Application" used by potential customers to apply to eTelecom to subscribe Customers to the eTelecom mobile Service.

Call Credit Expiry Period means the time between the date a Customer Recharges and the date the call credits expire during which a Customer can use the Service.

Calling Number Display means a call function allowing the Customers Mobile Service Number to be displayed to a recipient.

Carriage Service Provider has the same meaning as defined in Section 87 of the Act.

Confidential Information means all confidential information about the Service, eTelecom, its Related Bodies Corporate, the Network, or the Customer, which is or has been disclosed under or in connection with this Agreement; or learnt or acquired in the performance of this Agreement, other than any such information which:

- a was in the public domain at the time of its provision, otherwise than through a disclosure in breach of this agreement; or
- b is or lawfully came into the possession of the other party otherwise than as a result of a disclosure in breach of this agreement. Connection means the activation of the Service. Connected has a corresponding meaning. Customer means the person who uses the Service. Customer Service Guarantee means any performance standards made by the ACA pursuant to Part 9 of the Act. Disconnection means the disconnection of a Connection and

Disconnected has a corresponding meaning.

Equipment means the mobile telecommunications apparatus selected by the Customer in their Application to receive the Services or the mobile telecommunications apparatus utilised to receive the Services.

GST refers to the goods and services tax under A New Tax System (Goods and Services Tax) Act 1999 ("GST Act") that may be in force in Australia from time to time.

Intellectual Property Rights includes any rights associated with inventions, copyright, designs, trade marks, trade names, service marks, indicia of origin, business names, patents, petty patents, innovation patents and including any right to apply for any of the above rights.

International Roam means the ability to use the SIMcard in countries other than Australia and Internationally Roam has a corresponding meaning.

Mobile Portability Authorisation Form means an authorisation form signed by the Customer to Port an MSN to a new Supplier.

MSN means a Customer's mobile service number allocated pursuant to the Telecommunications Numbering Plan 1997.

Network means the facilities operated by a Carriage Service Provider for the purposes of providing public mobile telecommunications services

Personal Information shall have the same meaning as that defined in the Privacy Act 1998 (Cth) as supplemented, varied or amended from time to time

Port means the transfer of an MSN between Suppliers of Telecommunication Services. The words Porting and Ported have corresponding meanings.

Products means any Value Added Service, Special Service or associated Equipment supplied separately to the eTelecom Service.

Roam means the ability to use the SIMcard on another Network.

Reconnection means the re-activation of a Connection, which has been Disconnected.

Recharge Pin means a voucher which when used gives the Customer an amount of credit for the Customer's eTelecom pre-paid account balance equal to the face value of the voucher.

Related Body Corporate has the meaning given to the term in the Corporations Act 2001.

Service(s) means the eTelecom pre-paid digital telecommunications service.

Service Description means Part 1 of this Agreement.

Service Provider means Redmedia Solutions Pty Ltd trading as eTelecom (ABN 68 116 766 431)

Email: enquiries@etelecom.com.au

Web: <http://www.etelecom.com.au/>



SIMcard means the subscriber identity module card, to be used with a mobile phone handset to enable use of the Service.

Special Services means eTelecom special services available with the Service from time to time to approved Customers, as described in Part 1 of this Agreement.

Standard Form of Agreement has the meaning given to the term by s.479 of the Act.

Supplier means a Carriage Service Provider ("CSP"), which supplies a public mobile telecommunications service to Customers.

Usage Charge means any charge that cannot otherwise be charged in advance.

Value Added Services means the value-added services available with the Service, as described in Part 1 of this Agreement.

You or Your means the person who has contracted with eTelecom for the supply of the Service and where two or more persons have applied, means those persons jointly and severally

15. Interpretation:
15.2. Interpretation

In this Agreement, unless the context otherwise requires:

- a headings are for convenience only and do not affect interpretation
- b the singular includes the plural and visa versa
- c all references to dollars, value and price are to the Australian currency;
- d references to a party includes its successors and permitted assigns;
- e references to payment to any party includes payments to another person on the direction of that party; and
- f a reference to any statute includes any amendments, re-enactments or replacements to that statute from time to time.



Standard Form of Agreement - Internet Services

Your Obligations

You must pay us our Charges as summarised below.

You must ensure that you comply at all times with your obligations, including licence conditions applicable to the Services. You must not use the services to transmit or publish any material that is defamatory, in breach of copyright or obligations of confidentiality or otherwise in breach of any law. You will indemnify us for any loss or expense we suffer as a result of your doing so.

You are responsible for the maintenance of any equipment supplied by us (or any supplier) and you indemnify us for any loss or damage to the equipment unless it is due to fair wear and tear. You must ensure that our equipment and any facilities and connections used in providing the services are maintained by a person approved by us. You must provide us with reasonable access to your premises to install or maintain our equipment and you must return any equipment to us (or the relevant supplier) on termination of the services.

Other Important Information

Provision of Services

eTelecom will provide you with telecommunication services for Dialup, ADSL, and other applicable Internet connectivity services, as nominated by you on the eTelecom Internet Service Application. We will provide these services using our facilities and services and those of other suppliers.

Where, in providing the services, we or a third party supplies you with equipment, you agree to maintain the equipment, grant access to us or a person approved by us to repair the equipment and to return the equipment to us or the third party on termination of the agreement.

Charges

We will advise you of the charges you will incur for the services from time to time which are also described in detail on the eTelecom website and Service Application.

Our charges may include connection charges, usage-based charges (including connection charges for each call and timed or untimed charges for each call), charges for content provided with the service, charges for other services provided in connection with the call, number reservation charges, reconnection charges, disconnection charges in some circumstances, dishonour fees and overdue fees, and other charges. Please call us on 1300 303 217 if you would like further details about charges for particular types of calls.

Charges may vary depending on the time of day (including peak, off-peak and economy periods), the type of customer, the origin and destination of the call, whether the call is a voice call or data call, the volume of calls made during a period and any discounts that might apply to the particular call or to the particular customer. Charges incurred through another service provider in using the service will not be the responsibility of eTelecom.

Unless specifically stated otherwise in the SFOA, we will bill you in advance for periodic charges, connection and service fees (where applicable) and in arrears for usage charges. We will endeavour to bill you within the next normal billing period for charges billed in arrears, but we reserve the right to bill you for those charges in later billing periods.

Billing

We will generally send you a bill monthly by email, but we have the right to send you a bill at any time and may vary the frequency of billing at our discretion.

Your bill will indicate how you are able to pay the bill. We may charge you a dishonour fee if a direct debit fails or a cheque is not honoured.

We may charge you interest at a rate 3% above the Commonwealth Bank Overdraft Reference Rate published at the beginning of the relevant month on overdue amounts not paid by the due date (and recover costs from you that we may incur in recovering such overdue amounts). We may require you to lodge a security deposit with us as a condition to providing the services, and we may from time to time set a credit limit for the provision of services to you.

You are still required to pay outstanding bills even if your services are suspended, cancelled or disconnected.

Your bill may include charges that we have incurred on your behalf from other suppliers.

Transfer of Services

We will transfer your services from your current supplier to us. You are responsible for any outstanding, or disconnection fee's from your current supplier.

Personal Information

eTelecom collects personal information about you (including information about your credit record) to assess your application and, if approved, provide services to you. eTelecom uses your personal information to conduct ongoing credit management on your account and to carry out credit scoring and market and product analysis.

In order to provide services to you, we may disclose your personal information to other telecommunications service and equipment providers, resellers, credit providers, credit reporting agencies, organisations to whom we outsource services. If that information is not provided, eTelecom may be unable to provide the services. In most cases, you will be able to gain access to your personal information on request.

eTelecom may also use your personal information to provide you with details of other products and services. To do that, where applicable, we may disclose information to the organisations described above, to eTelecom's related bodies corporate and to eTelecom's partners and associates. They may use your personal information to provide you with details of their products and services.

Term and Termination

Email: enquiries@etelecom.com.au

Web: <http://www.etelecom.com.au/>



There is no minimum term for the provision of the services under the SFOA. Individual product Terms and Conditions override the SFOA in all cases and you are bound by these terms of service and minimum contract periods.

You may ask us to transfer the services to another supplier, and provision of the services will cease when the transfer is effective. Either of us may terminate the agreement by giving 30 days written notice to the other.

We may immediately terminate the agreement if you have breached the SFOA, become bankrupt, or insolvent, have not paid your bills as required, or where you have changed address and we are unable to locate you.

You remain liable for all charges in relation to the provision of services up to the time of termination and any new charges incurred as a result of termination as set out in the Individual product Terms and Conditions.

Limitation of Liability

Performance of the services may be affected by matters outside of our control (such as the level of use of the services). We do not warrant the services will be free from blockage, delay or faults of any kind and, subject to the law, we will not be responsible for damages that may result.

eTelecom limits its liability to you under the SFOA. Except where specifically expressed otherwise in the SFOA and subject to the Trade Practices Act 1974, eTelecom is not liable for any loss that you may suffer.

Our liability for any breach of any term, condition, warranty or under any remedy implied by law (which cannot be excluded), is limited, at our option, to the repair or resupply of equipment or services or the payment of the cost of having the equipment or services resupplied.

SFOA

Under Telecommunications Act 1997, eTelecom is entitled to lodge a "Standard Form of Agreement" with the Australian Communications Authority setting out the terms on which eTelecom will supply certain goods and services to customers. The legislation provides that, unless you have negotiated an individual contract, the SFOA is binding on you and on eTelecom. As a customer, you are obliged to comply with the terms and conditions of the SFOA.

Reporting Faults

If you experience a fault with the services we provide to you, you should contact our Customer Service Representatives and the matter will be directed to our faults handling department.

Complaints

If you have any concerns about the services we are providing to you, you should contact us immediately. We will endeavour to resolve any problem or complaint you have as quickly and effectively as possible. If you are not satisfied with the initial outcome of your complaint, the matter will be reviewed in accordance with our complaints procedures.

The Telecommunications Industry Ombudsman (TIO) can resolve disputes between the telecommunications companies and their customers. The TIO is an independent body and is provided as a free service. The TIO is an office of **last** resort. It only takes up a complaint if the customer has first tried to resolve it with the relevant company.

The Office of Fair Trading (or similar) in your State or Territory may also investigate consumer complaints.

Variations

Legislation provides that eTelecom is permitted to make certain changes to the SFOA without giving you prior notice of these changes unless the changes are detrimental to you. If the change is likely to be detrimental to you, eTelecom is required to either publish an advertisement notifying you of the change beforehand and providing written notice to you of the change before it occurs. We will determine the most appropriate course of action to take at the time any variations are made.

Standard Form of Agreement Internet Services

We, eTelecom (ABN 45 107 659 503), will provide you, our customer, with Services in accordance with these terms and conditions, the applicable charges notified to you from time to time and the eTelecom Service Application (the "Application") (collectively, the "Agreement").

DATA SERVICES TERMS AND CONDITIONS

1. SERVICES

- 1.1. **Services provided for Term:** Subject to the provisions of this Agreement and for so long as the Customer complies with its Obligations under this Agreement, eTelecom will use its best endeavours to provide the Data Services, on and from the date of execution of this Agreement for the Term and for any subsequent period as may be agreed between the parties in accordance with the terms set out in this Agreement and the General Terms.
- 1.2. **Other Suppliers:** The Customer acknowledges that:
 - a) eTelecom depends on the provision of equipment and services by Other Suppliers in order to provide the Data Services;
 - b) the ability of eTelecom to provide the Data Services may be affected by the Other Suppliers, which is beyond the control of eTelecom; and
 - c) eTelecom will not be liable to the Customer or any third party for any failure to provide the Data Services in accordance with this Agreement or at all to the extent such failure results from the act or omission of an Other Supplier, its servants, agents or contractors.
- 1.3. **Consideration:** In consideration of eTelecom providing the Data Services, the Customer agrees to pay to eTelecom the charges specified in the Service Application, on the eTelecom website or such revised prices as may be agreed in writing between the parties from time to time ("the Charges").
- 1.4. **Assistance:** The Customer must provide all information and assistance as is reasonably required by eTelecom in order to enable eTelecom to provide the Data Services in accordance with this Agreement and the General Terms.
- 1.5. **Pre-qualification process:** The Customer acknowledges that eTelecom is only able to provide the Data Services if:
 - a) the Customer has a telephone line as specified by the applicable Other Supplier;
 - b) the telephone line is DSL enabled or able to be enabled; and
 - c) the Customer complies with any reasonable written direction given by eTelecom from time to time.

2. **DATA SERVICE LEVELS:** eTelecom shall not be required to provide a level of Data Services which exceeds the Data Service levels described in clause 7 or as otherwise agreed between the parties from time to time ("Data Service Levels").

3. **ADDITIONAL SERVICES:** Before the Customer acquires or enters into any agreement for the supply to the Customer of:

- a) any services the same or substantially similar to the Data Services offered by eTelecom; and
- b) has intentions to move the service to another provider, must notify eTelecom of such intentions.
- c) For the avoidance of doubt, nothing in this clause 3 restricts the Customer from sourcing additional services (as contemplated by clause 3(b) above) at any time during this Agreement provided the Customer complies with the procedure in clause 3(b).

4. EQUIPMENT

4.1. **Liability for Equipment:** The Customer:

- a) acknowledges that eTelecom has no Obligation under this Agreement to provide any CPE or eTelecom Equipment to the Customer;
- b) bears the risk of loss or damage to any equipment used by or located on any premises of the Customer;
- c) must provide eTelecom with full, free and safe access to the relevant premises if required for eTelecom to install, repair, replace, maintain or remove the equipment provided by eTelecom, repair or restore the Data Services or otherwise exercise its rights under this Agreement or if required by an Other Supplier to repair and restore the Data Services;
- d) must use the CPE in accordance with the requirements of any Other Supplier of the Network;
- e) must provide a suitable physical environment for CPE which meets the requirements specified by the manufacturer of the CPE including as to floor space, power and climate control for and location of any equipment;
- f) must notify eTelecom immediately on becoming aware that any CPE requires maintenance of any kind;
- g) must ensure CPE is only repaired, serviced, moved or disconnected by qualified persons;
- h) must not remove or obscure any identification marks on CPE;
- i) must make ownership clear to all persons;
- j) must comply with all reasonable instructions given by eTelecom to protect Network integrity;
- k) must not do anything or allow anything to be done with CPE that might affect Network integrity;
- l) must ensure that all equipment connected to a Data Service complies with all relevant technical standards of the Regulator.

4.2. **eTelecom's Role**

- a) To the extent reasonably necessary to ensure the appropriate provisioning and configuration of CPE, eTelecom will provide reasonable assistance to the Customer to allow such provisioning and configuration to occur in an efficient manner.
- b) eTelecom may, at any time, issue written notice to the Customer requiring the change, replacement, maintenance or removal of CPE on three calendar days' notice where reasonably practicable, and the Customer must use best endeavours to procure this to occur as soon as practicable.

4.3. **Impact of CPE on Network or eTelecom Equipment**

- a) The Customer is wholly responsible for the equipment that is not supplied by eTelecom and any liability arising from the use of that equipment by any person, including the Customer.
- b) In the event that the installation or use of CPE or any act or omission of the Customer its servants, agents or contractors results in any damage, losses or liabilities (including reasonable legal fees and any such damages, losses or liability to an Other Supplier payable by eTelecom), the Customer indemnifies and shall keep eTelecom and its Related Bodies Corporate indemnified against such damage, loss or liability.
- c) eTelecom may charge the Customer Additional Charges for any repair, maintenance or replacement of equipment provided by eTelecom due to events other than normal wear and tear, including but not limited to:
 - i) acts of God (eg, fire or tempest), provided that the charge will be no more than the total cost for any such repair, maintenance or replacement of the eTelecom equipment;
 - ii) a failure of the Customer to use CPE in accordance with this Agreement;
 - iii) any negligent act or omission, or act of wilful damage or interference by a party other than eTelecom, its employees or agents;
 - iv) any failure or fluctuation of the electrical power supply to that equipment, or any external electromagnetic interference, or any failure of air conditioning and humidity control for that equipment; or
 - v) the performance of maintenance service by a person other than eTelecom.

5. USE OF THE DATA SERVICE

- 5.1. Customer's Liability:** The Customer remains completely liable for all information carried by means of the Data Service including (without limitation) liability for any payments, suits, claims or liabilities arising in connection with the content of any data sent by it using the Data Service and the Customer fully indemnifies eTelecom in relation to any such payments, claims, suits or liabilities.
- 5.2. Acceptable Use Policy:** The Customer shall comply with the acceptable use policy in set out in clause 6 ("Acceptable Use Policy").

6. ACCEPTABLE USE POLICY

- 6.1. Internet Acceptable Use Policy:** This clause sets out the terms and conditions upon which the Customer may access the Network and systems. By using the Data Services the Customer agrees to be bound by the terms and conditions contained in sub-clauses 6.2 to 6.15 below. If the Customer does not wish to be bound by these terms and conditions, the Customer must not access the Network or systems.
- 6.2. Application:** This Policy is applicable to the Customers' use of the Internet. A breach of this Acceptable Use Policy by the Customer is strictly prohibited and may lead to the suspension or termination of the Data Services or any part of it, without notice. All obligations on the Customer apply to everyone to whom the Customer allows to use the services.
- 6.3. Responsible Usage:** The Customer is responsible for its actions on the Network and systems it accesses through the Data Services. The Customer must comply with all rules, regulations and acceptable usage policies that are in force for each system the Customer access. If the Customer acts recklessly, irresponsibly or the Customer's actions endanger the Network or systems, the Customer's access may be suspended or terminated at any time by eTelecom without notice to the Customer. In particular, the Customer agrees that whilst using the Data Services, the Customer will not:
- a) store, send or distribute material which is obscene, indecent, pornographic or confidential or material that could give rise to civil or criminal proceedings;
 - b) do anything, including store, send or distribute material which defames, harasses, threatens, abuses, menaces, offends or violates the privacy of any person;
 - c) do anything, including store, send or distribute material, of an illegal or fraudulent nature, including activities prohibited under any applicable State and Commonwealth law;
 - d) do anything, including store, send or distribute material which interferes with other users or restricts any person or which inhibits any other user from enjoying the Data Services, the Internet and Network and systems;
 - e) forge header information, email source address or other user information;
 - f) breach any laws, codes, standards and content requirements of any relevant authority;
 - g) access, monitor or use any data, systems or networks, including another person's private information, without authority or attempt to probe, scan or test the vulnerability of any data, system or network;
 - h) compromise the security or integrity of any network or system;
 - i) place any viruses or other similar programs on the Data Service or the Internet;
 - j) distribute unsolicited advertising or spamming or overload any network or system;
 - k) use another person's name, username or password or otherwise attempt to gain access to the account of any other eTelecom customer;
 - l) tamper with, hinder the operation of or make unauthorised modifications to any network or system; or
 - m) attempt any of the above acts or permit another person to do any of the above.
- 6.4. Reasonable Resource Usage:** eTelecom requires the Customer to act responsibly in the Customer's use of resources on the Network and systems. If the Customer uses unreasonably excessive resources on the Network and systems, the Customer's access may be suspended or terminated at any time by eTelecom without notice to the Customer.
- 6.5. Security:** The Customer is responsible for maintaining the security of the Customer's Internet service, including protection of account details and passwords. You indemnify eTelecom and their officers, employees, agents and related bodies corporate from and against all actions, claims, suits, demands, damages, liabilities, costs or expenses arising out of, or in any way connected to, the use of the Customer's service, including unauthorised usage of the Customer's service by a third party, up until the time the Customer notify us of unauthorised access.
- 6.6. Copyright:** The Customer is responsible for ensuring that the Customer does not store on the eTelecom system, transfer or cause to be transferred over the Network, reproduce or make available for distribution through the Network, any data where the storage, reproduction, transfer, or distribution of, that data is in contravention of the Copyright Act 1968 (Cth) or otherwise infringes any third party intellectual property rights (such as by using, copying or distributing data or software without the permission of the owner).
- 6.7. Content:** eTelecom does not and cannot monitor or control the content and information accessed via the Services which may be offensive, inappropriate or unsuitable. eTelecom provides access to the Internet only. eTelecom shall not be held responsible in any way for the content of the information accessed or offered for public access via the Data Services. It is the Customer's and the Customer's users' responsibility to avoid whatever is found to be offensive or obscene on any system or the Internet. The Customer will be responsible for any material the Customer or the Customer's users place on the Network and systems, and for any statements made in mediums including, but not limited to, web pages, e-mail, chat or discussion forums and bulletin boards. Content providers must clearly identify material unsuitable for minors and refrain from contributing prohibited material, including, but not limited to, material deemed obscene under any applicable State or Commonwealth law.
- 6.8. Regulatory Authorities:** Commonwealth legislation allows the Australian Broadcasting Authority ("ABA"), or the Australian Communication and Media Authority ("ACMA") to direct eTelecom or Other Suppliers to attend to certain matters including removal of prohibited Internet content from their servers or prevent users from accessing certain Internet content. The Customer agrees that eTelecom and the Other Suppliers may take any necessary steps in order to comply with any relevant industry code of practice or direction from the ABA, ACMA or other regulatory authority. eTelecom and the Other Supplier may take these steps at any time without notice to the Customer.
- 6.9. Investigation by Authorities:** eTelecom reserve the right to act in any manner they deem appropriate where there are reasonable grounds for suspecting that illegal or unacceptable usage of the Network and systems is occurring. eTelecom will co-operate fully with Commonwealth and State Police and other bodies investigating unlawful behaviour on or via their network or systems. eTelecom reserve the right to suspend the Customer's access if the Customer's usage of its network or systems is subject to any investigation.
- 6.10. Complaints:** To report a violation of this Acceptable Use Policy, please send details, including any documentation, article or e-mail to the email address provided in the Work Schedule.
- 6.11. Suspension or Termination:** eTelecom reserve the right to suspend or terminate the Customer's Data Services without refund should the Customer breach, or assist, abet, encourage or incite another party to breach this Acceptable Use Policy.
- 6.12. Indemnity:** The Customer indemnifies eTelecom and their officers, employees, agents and Related Bodies Corporate from and against all actions, claims, suits, demands, damages, liabilities, costs or expenses directly or indirectly suffered or incurred by eTelecom (including as a result of a claim by a third party) resulting from:
- a) any breach of this Acceptable Use Policy; and/or
 - b) the use or misuse of the Data Services by the Customer or any other person using the Data Services provided to the Customer.
- 6.13. General Disclaimer of Liability:** eTelecom disclaim all liability for or in relation to any loss or damage incurred by the Customer or the Customer's equipment in any way through or in relation to the use of the Data Services or the suspension or termination of the Data Services by eTelecom pursuant to this Agreement. This disclaimer of liability is in addition to and does not supersede, limit or replace any other applicable limitation of liability in any eTelecom terms and conditions or other agreement.
- 6.14. Waiver:** If eTelecom does not act in relation to a breach by the Customer of this Policy, this does not waive eTelecom's right to act with respect to any subsequent breach.
- 6.15. Changes:** eTelecom may vary this Acceptable Use Policy at any time. eTelecom will post the revised Acceptable Use Policy on its home page. The Customer's continued use after such posting will constitute acceptance of the variation. eTelecom may also give notice to the Customer of a variation of this Acceptable Use Policy by email to the email address notified by the Customer or by or any other means eTelecom deem appropriate.

- 6.16. Correctness of Information:** The Customer is responsible to ensure that all information sent and received by means of the Data Service is correct and complete and eTelecom will not be responsible in the event of any error.
- 6.17. Acknowledgement:** The Customer acknowledges that the Data Services is an "Internet-grade" service only, which means that eTelecom does not guarantee successful data transport using the Data Services.

7. DATA SERVICE LEVELS

7.1. Support Services: The Customer must report any faults in accordance with the fault reporting procedures set out in the following clauses.

7.2. Exclusions:

- a) eTelecom's Obligations under this clause do not extend to faults caused as a result of:
- i) any fault in equipment, software or any network not forming part of the Network or the Data Service;
 - ii) damage due to causes external to the Data Services;
 - iii) interference;
 - iv) force majeure; and
 - v) planned outages.
- b) The Customer acknowledges that:
- i) compliance with the Industry Code Unconditioned Local Loop Service - Network Deployment Rules, registered by the Regulator under section 117 of the Telecommunications Act 1997, may not completely eliminate interference; and
 - ii) faults in cable and other faults in the copper network may result in interruptions to the provision of the Data Services, in which event the Customer agrees to do everything reasonably necessary to enable eTelecom to resolve those faults.
- c) eTelecom will not provide fault restoration where the fault is in a network or cabling owned, controlled or maintained by any person other than eTelecom.

7.3. Fault Reporting: eTelecom will receive fault reports ("Fault Reports") by e-mail at (support@etelecom.com.au) from the Customer. eTelecom will provide a fault reference number, as detailed in section 6 of this SLA. If the Customer cannot access email services to log a Fault it can be logged by phone on (1300 303 217). Responses to fault reporting are within the applicable Coverage Window, and is in accordance with this clause. Fees may be charged for effort expended in response to false faults and faults deemed to be the responsibility of the Customer.

7.4. Response and Restoration Targets: The Response and Restoration Targets shall be in accordance with those specified in Clause 7.5

7.5. Fault Report Communications: In the event of a Fault Report, eTelecom will communicate with the Customer as follows:

- a) **Fault Report:** Having received a Fault Report eTelecom will immediately provide a fault report reference number.
- b) **Response:** eTelecom Response will be within the target time of 24 hours.
- c) **Progress Advice:** eTelecom will contact the Customer every 48 hours within the coverage window, or more frequently if agreed, with a progress report on the fault.
- d) **Close Off:** eTelecom will contact the Customer upon restoring service to the Customer and confirm that the service is operating satisfactorily.

7.6. Service Availability: eTelecom does not warrant or guarantee that services will be available without disruption. eTelecom will not compensate the Customer by any means in the event of service failures. The Customer will indemnify eTelecom, its employee's, agents and other parties from loss of revenue associated with service failures.

7.7. Fee Rebates Due To Service Unavailability

- a) Where a fault is attributed to the eTelecom network and the service of the Customer is unavailable for use within the coverage window for more than the hours stipulated, then eTelecom will not provide a service fee rebate.
- b) Unavailability does not include loss of telephone service. (Applicable to Shared Spectrum DSL services). Temporary Disconnections, Accidental Disconnection or any other act that removes Line Codes from the Customers PSTN, will result in cancellation of service. The Customer is solely responsible for all fee's as a result or cancellation or re-provisioning to enable Line Codes.

7.8. Service Activation Lead Times: The Service Activation Lead Times shall be in accordance with those specified by third parties. Typical lead times of 21 working days normally apply.

7.9. Service Activation Communications: eTelecom will communicate with the Customer throughout the process of service activation as follows:

- a) Service Order Form - Customer to provide to eTelecom.
- b) Acknowledgement - Within 2 working days of receipt of a complete Service Order Form, eTelecom e-mails the Customer with acknowledgement of the Service Order by means of an Invoice. For incomplete Orders, the Customer will be notified by phone or email of the information required before the Order can be accepted.
- c) Progress Report - eTelecom will provide the Customer a progress report with details of the Order/s in progress, status and "Planned Completion Date", upon the Customer contacting eTelecom by phone or email.
- d) Installation Co-ordination - where applicable eTelecom (or our agent) may arrange an installation appointment with the Customer.
- e) Installation Completion Advice - Within 1 day of service commissioning, eTelecom will notify the Customer to confirm that the service is complete.
- f) Rescheduling the Planned Completion Date - In the event of a requirement to re-schedule (either eTelecom or Customer initiated), then eTelecom will establish a revised 'Planned Completion Date' and e-mail the Customer at the earliest opportunity.

7.10. Fee Rebates Due To Service Activation Delays

- a) Where eTelecom does not activate the service within the Service Activation Lead Time, eTelecom will not provide a fee rebate to the Customer. Third Party delays in provisioning will not attract a rebate.

7.11. Chargeable Activities: Fees for the chargeable activities are detailed in the eTelecom Service Application and are also available on the eTelecom website.

7.12. Failure to Meet Service Levels

- a) eTelecom will use reasonable endeavours to meet the service levels for the Data Services as set out in this clause 7 ("Service Levels"). If eTelecom fails to achieve the relevant Service Levels in any period, the Customer is not entitled to a rebate of the fees.
- b) Notwithstanding any other provision of this clause 7, the Customer will not be entitled to a rebate where eTelecom' failure to achieve the relevant Service Levels, is caused directly or indirectly by:
 - i) any act or omission by the Customer or any third party;

- ii) scheduled maintenance;
 - iii) unscheduled maintenance in cases of emergency; or
 - iv) components of the Data Service provided using facilities outside the direct control of eTelecom.
- c) The Customer agrees that to the extent permitted by law, any rebate payable by eTelecom to the Customer pursuant to this clause, will be the sole remedy available to the Customer in respect of the event, and is at eTelecom's sole discretion.

7.13. Customer Responsibilities

- a) The Customer must:
- i) provide all information and assistance as is reasonably required by eTelecom in order to enable eTelecom to provide the Data Services to the Customer;
 - ii) comply with all reasonable directions given by eTelecom in relation to the Customer's use of the Data Services;
 - iii) not interfere with the normal operation of the Data Services or the Network or make either unsafe;
 - iv) ensure safe access by eTelecom or an Other Supplier (as applicable) to the Customer's premises:
 - A) to inspect or test any equipment which may be causing interference or danger; and
 - B) as required in connection with the provision, maintenance and repair of the Data Services or the Network, provided that eTelecom has given the Customer reasonable prior notice of its need to gain access (except in the case of an emergency, where eTelecom need only give notice if reasonably possible);
 - v) ensure that eTelecom or an Other Supplier (as applicable) is provided with sufficient and timely access to the Customer's premises and any equipment to enable eTelecom to provide the Data Services in accordance with this Agreement; and
 - vi) make any reasonable modification to any equipment to avoid danger if requested by eTelecom, provided that eTelecom has made the modification request in writing (except in the case of an emergency), where eTelecom need only give written notice if reasonably possible.
- b) The Customer shall:
- i) indemnify eTelecom and Other Suppliers against a Claim by the owner or occupier of the Customer's premises, or any other person, in relation to eTelecom's or an Other Supplier's (as applicable) entry onto those premises.
 - ii) release eTelecom and Other Suppliers from all Claims which may arise in relation to eTelecom' or an Other Supplier's (as applicable) entry onto the Customer's premises.
- c) If the Customer fails to provide access to its premises as in accordance with this clause 7.13, the Customer releases and indemnifies eTelecom against any claim arising from eTelecom's inability to perform tasks or carry out works on those premises to which access was not provided.
- d) The Customer is solely responsible for
- i) the consequences of its use of the Data Services; and
 - ii) the content of any data or information which the Customer sends or receives using the Data Services.

7.14. Data Service Updates

- a) eTelecom may vary or add to the Data Services provided to the Customer in the following circumstances:
- i) if in eTelecom's reasonable opinion such a variation or addition is required as a result of a change made by an Other Supplier, in which case eTelecom may do so without reference to the Customer;
 - ii) if, in eTelecom's reasonable opinion, the Data Services needs to be varied or added to in any way from time to time, in which case eTelecom may do so at its discretion without reference to the Customer, provided the variation does not result in any material deterioration in the quality of the Data Services or the Network; and
 - iii) in any other case, eTelecom may do so only by obtaining the Customer's written consent before it varies or adds to the Data Services, such consent shall not be unreasonably withheld.

7.15. Charging: eTelecom reserves the right to charge the Customer an Additional Charge for such services if eTelecom responds to a request from the Customer and eTelecom demonstrates that:

- a) the failure to provide the Data Services to the Customer was not due to a matter for which eTelecom is responsible; and
- b) it would have been disclosed by a reasonable investigation by the Customer.

7.16. Exclusion of Liability: In providing the Data Services, eTelecom is not responsible for maintenance or rectification of faults that occur outside the Network or the failure to provide Data Services as a result of matters outside of its control including, but not limited to:

- a) equipment and cabling owned or leased by the Customer or otherwise in the Customer's control affecting the provision of the Data Services;
- b) carriage of the Data Services across networks not controlled by eTelecom;
- c) operational and environmental characteristics under which the Data Services are used by the the Customer; or
- d) failure by any third party to maintain or maintain appropriately any equipment relevant to supply of the Data Services.

7.17. Maintenance of the Network: eTelecom will give the Customer as much prior notice as is reasonably possible in the circumstances:

- a) of any maintenance of the Network which is to be conducted outside eTelecom's ordinary maintenance windows;
- b) if there is any change to eTelecom's medium of connectivity which would cause degradation to the Data Services; and
- c) any other maintenance of the Network which may adversely affect the use of the Data Services by the Customer.

7.18. Maintenance or Rectification of Faults: In providing the Data Services to the Customer, eTelecom is not responsible for:

- a) maintenance or rectification of faults that occur outside the Network; or
- b) maintenance or rectification of faults that occur in respect of CPE that has not been supplied or approved by eTelecom.