

## WIRELESS BROADBAND SERVICE SCHEDULE

### 1. About this document

This Service Schedule forms part your Contract. In the event of any inconsistency between this Service Schedule and another clause of your Contract, this Service Schedule prevails to the extent of any inconsistency, but not otherwise.

### 2. Dictionary and Glossary of Terms

<b>The expression:</b>	<b>means:</b>
Alternate Plan	as in clause 14(a)
Associate	as in the Corporations Act 2001 (Cth)
Authorised Customer	the person who has contracted with us in respect of the Wireless Broadband Service to which the MSN relates.
Charged Static IP Address	The monthly charge associated for acquiring a static IP address
Commencement Date	the date on which this Service Schedule commences (as set out in the application form, in the terms and conditions of your Plan or as otherwise agreed to by the parties in writing)
Contract	as in clause 3 of our Standard Form of Agreement made under section 479 of the Telecommunications Act 1997 (Cth)
Dynamic IP Address	An IP address for your computer which differs each time you authenticate
Equipment Documentation	User guides, manuals and instructions in connection with the installation and use of Equipment, including the manufacturer's guidelines and recommendations
EULA	as in clause 9(b)(vi)
GB	Gigabyte
GSM	Global System for Mobile Communications

Holding Over Period	as in clause 40
HSDPA	High-Speed Downlink Packet Access
Included Data Allowance	the amount of data you are entitled to download and upload in connection with your Wireless Broadband Service in a given month without incurring excess usage charges, as specified in the terms and conditions of your Plan or as otherwise notified to you by us in writing from time to time
Minimum Term	the minimum term of this Wireless Broadband Service (as set out in your application form, the terms and conditions of your Plan or as otherwise agreed to by the parties in writing)
Mobile Number Portability Code	the industry code known as Mobile Number Portability C570:2009
MSN	Mobile Service Number
Personnel	the current and former officers, employees, agents, representatives, contractors and subcontractors, assigns and nominees of a party
Related Body Corporate	as in the Corporations Act 2001 (Cth)
Related Entity	as in the Corporations Act 2001 (Cth)
Scheduled Outage	as in clause 13
Software	as in clause 9(a)
Software Documentation	User guides, manuals and instructions in connection with the installation and use of the Software
Static IP Address	A permanent IP address that acts as an address for your computer.
Telecommunications Numbering Plan	the Telecommunications Numbering Plan 1997
Unused Data	the portion of your Included Data Allowance that is not consumed during a given month
Wireless Broadband Service	the wireless broadband Service provided to you in accordance with this Service Schedule

Wireless Coverage Areas!	as in clause 5(a)
<p><i>Capitalised terms which appear in this Service Schedule and are not defined in this clause 2 may be defined in the Customer Terms section of your Contract. For the avoidance of doubt, the Interpretation section in the Customer Terms applies to this Service Schedule.</i></p>	

### 3. This Service: Overview

- (a) We agree to provide this Wireless Broadband Service to you on the terms and conditions set out in this Contract.
- (b) This Wireless Broadband Service may provide you with (amongst other things):
  - (i) a wireless broadband modem; and
  - (ii) an Included Data Allowance.
- (c) This Wireless Broadband Service typically operates from a Static IP Address. However, you acknowledge and agree that we may move you to a Dynamic IP Address. Fees and charges apply to retain a Static IP Address. Charged Static IP Addresses may be changed on three (3) weeks' notice to you by us.
- (d) This Wireless Broadband Service is not intended for business use or use in connection with mission critical applications. Further limitations of this Wireless Broadband Service are set out in clause 5 of this Service Schedule.

### 4. Term

- (a) For the avoidance of doubt, the term of this Wireless Broadband Service commences on the Commencement Date and continues for the Minimum Term and any Holding Over Period, unless terminated earlier in accordance with this Contract.
- (b) If you do not provide us with notice in writing (in such form as we may reasonably require from time to time) that you do not intend to renew this Service at or prior to the expiry of the Minimum Term, this Service will continue on a month-to-month basis, on substantially the same terms and conditions ("**Holding Over Period**").

## 5. **Wireless Broadband Coverage: Overview**

- (a) Wireless Broadband coverage in connection with this Service is only available within our wireless broadband coverage areas (“**Wireless Coverage Areas**”). You may obtain details of the Wireless Coverage Areas by contacting us via the Commander Website at [www.commander.com](http://www.commander.com) .
- (b) You acknowledge and agree that:
  - A. you may be unable to use all or any part of this Wireless Broadband Service if you attempt to use this Wireless Broadband Service outside the Wireless Coverage Areas;
  - B. you must make your own assessment (and to the maximum extent permitted by Law, you solely rely on that assessment) of whether this Wireless Broadband Service is suitable for you having regards to the Wireless Coverage Areas;
  - C. wireless broadband coverage may vary (even within the Wireless Coverage Areas) and you may experience network congestions, delays, drop-outs, poor or no wireless broadband coverage, packet loss, jitter, download failure, reduced data speeds and the like;
  - D. this Wireless Broadband Service is a residential grade service. It is not suitable if you require a Wireless Broadband Service which is not affected by latency, jitter, packet loss, drop outs and the like (for example, for real time video streaming or for high volume continuous file transfers); and
  - E. this Wireless Broadband Service is not suitable to be used to support ‘peer to peer’ applications (whether encrypted or unencrypted).

## 6. **Wireless Broadband Speeds**

- (a) The speed you experience whilst using this Service may vary and may be affected by, amongst other factors:
  - (i) network congestion;
  - (ii) your geographical location (even within the Wireless Coverage Areas) (for example, faster transfer speeds may be achieved in an area

covered by the HSDPA network than an area covered by the GSM network);

- (iii) local conditions and weather;
  - (iv) the hardware and software you use in connection with this Wireless Broadband Service (for example, your internet browser and your computer);
  - (v) general internet traffic; and
  - (vi) the speed and capacity of the server being accessed in connection with this Wireless Broadband Service.
- (b) Based on testing conducted by our suppliers, you may expect to typically achieve speeds between 500kbps and 1.5Mbps. Actual speeds may be slower and are affected by the factors set out in clause 6(a) of this Service Schedule. You are unlikely ever to achieve the theoretical maximum speed of 3.6Mbps.

## **7. International Roaming**

International roaming is not available in connection with your Wireless Broadband Service.

## **8. SIM Cards**

- (a) We may supply you with a SIM card for use by you in connection with this Wireless Broadband Service.
- (b) You do not own any SIM card that is provided to you in connection with this Wireless Broadband Service.
- (c) You must take all reasonable steps to ensure that the SIM card is maintained in a good state of repair and in working order at all time (save as to except manufacturing faults). You must immediately notify us of any protracted or persistent faults or problems with the SIM card or your Wireless Broadband Service.
- (d) If the SIM card that is provided to you is lost or stolen (or it is reasonable to suspect that the SIM card has been lost or stolen), you acknowledge and agree that:

- (i) you must notify us immediately once you become aware that the SIM card has been lost or stolen or it is reasonable to suspect that the SIM card has been lost or stolen (whichever is the earlier);
  - (ii) to the maximum extent permitted by law, you remain liable to us for any and all fees and charges incurred in connection with your Wireless Broadband Service until such time that you notify us that the SIM card has been lost or stolen and we have had a reasonable period of time in which to cancel that SIM card; and
  - (iii) if we cancel that SIM card, you will be liable to pay us fees and charges in respect of us providing you with a replacement SIM card, as set out in our Schedule of Fees and Charges, or as otherwise notified to you by us from time to time.
- (e) For the purposes of clause 8(d), a SIM card will be taken as being lost or stolen if, amongst other things, the wireless broadband modem or other Equipment in which that SIM card was contained (for example, in your computer) was lost or stolen or it was reasonable to suspect that the said wireless broadband modem or other Equipment was lost or stolen.

## 9. Service Software

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- (a) We may provide you with software for use in connection with this Wireless Broadband Service ("**Software**").
- (b) You acknowledge and agree that:
  - (i) the Software is the exclusive property of its owner who retains all goodwill, right, title and interest in the Software and the Software Documentation (including all intellectual property rights);
  - (ii) you will ensure that no act is done (or no act is failed to be done) which interferes with the owner's goodwill, right, title or interest in the Software or Software Documentation or offends the owner's moral rights in the Software or Software Documentation;
  - (iii) you are granted a limited, non-exclusive, non-transferable, non-sublicensable, non-assignable licence to use the Software;
  - (iv) the provision of the Software to you is not to be interpreted as any representation by us or the owner of the Software that the Software will perform to a certain level or that the Software will be compatible with your Equipment or other software;

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- (v) you have made your own independent inquiries in respect of the performance of the Software and the compatibility of the Software with your Equipment and with other software; and
  - (vi) you will ensure that the End User Licence Agreement (“EULA”) in respect of the Software is strictly complied with and you agree to be bound by the EULA.
- (c) You must:
- (i) only use the Software in strict accordance with the Software Documentation;
  - (ii) only use the Software for the purpose of using this Wireless Broadband Service;
  - (iii) not disassemble, decompile or reverse engineer the Software;
  - (iv) not copy, reproduce or make a backup of the Software or Software Documentation or otherwise deal with the Software or Software Documentation in a manner which is inconsistent with the rights of its owner; and
  - (v) only use the Software in strict accordance with the EULA in respect of the Software.

## 10. Service Equipment

- (a) We may provide you with Equipment for use in connection with this Service, such as a wireless broadband modem.
- (b) You acknowledge and agree that:
  - (i) to the maximum extent permitted by law, we do not make any warranty or representation in respect of the performance or compatibility of the Equipment with your other Equipment or with any software;
  - (ii) the provision of the Equipment to you is not to be interpreted as any representation by us that the Equipment will perform to a certain level or that the Equipment will be compatible with your other Equipment or with any software;
  - (iii) you have made your own independent inquiries in respect of the performance of the Equipment provided to you and the compatibility of that Equipment with your other Equipment and with any software; and

- (ii) the Equipment Documentation is the exclusive property of its owner which retains all goodwill, right, title and interest in the Equipment Documentation (including all intellectual property rights).
- (c) You must:
  - (i) only use the Equipment provided to you in connection with this Service in strict accordance with the relevant Equipment Documentation;
  - (ii) not copy, reproduce or make a backup of the Equipment Documentation (or otherwise deal with the Equipment Documentation in a manner that is inconsistent with the rights of the owner of the Equipment Documentation); and
  - (iii) only use the Equipment provided to you in connection with this Wireless Broadband Service for the purpose of using this Wireless Broadband Service.

## 11. Usage Allowance

- (a) Your Included Data Allowance is set out in the terms and conditions of your Plan or as otherwise notified to you from us in writing.
- (b) Depending on the details of your Plan, your Included Data Allowance may be, or may not be, a cap on the volume of data you may upload or download in a given month. Certain Plans will:
  - (i) allow you to upload or download data in excess of your Included Data Allowance and excess usage charges will apply in respect of the volume of data that has been uploaded or downloaded in excess of your Included Data Allowance; or
  - (ii) have a 'hard cap' on excess usage and not permit you to upload or download any data once you reach that hard cap (for example, we may cap your excess usage, over and above your Included Data Allowance, at \$99 and/or at 1GB per calendar month),

and you agree that you will contact us if you are unsure of how your excess usage is treated under your Plan.
- (c) Unless otherwise specified by us in writing, and without limiting any additional terms and conditions in respect of your Included Data Allowance that may appear in the terms and conditions of your Plan or in any other clause of this Contract (or as otherwise notified to you from us):



- (i) your Included Data Allowance may not be reset until the 1<sup>st</sup> day of the following calendar month (whether or not your billing period commences on the 1<sup>st</sup> day of a calendar month);
  - (ii) both uploads and downloads of data consume your Included Data Allowance;
  - (iii) if you exceed your Included Data Allowance, excess usage charges will apply (as set out in the terms and conditions of your Plan or as otherwise notified to you by us from time to time); and
  - (iv) any Unused Data is forfeited and you are not entitled to any refund, rebate or credit in respect of the Unused Data or to 'roll over' the Unused Data to any subsequent month. (For example, if you have an Included Data Allowance of 3GB per month and you only consume 2GB in that month (i.e. your Unused Data is 1GB), your Included Data Allowance for the following month will remain at 3GB).
- (d) You expressly acknowledge and agree that the details of your data usage will be made available to you via an online portal accessible from our website or by contacting customer service. For the purposes of calculating and otherwise determining your data usage (including in respect of determining whether you have exceed your Included Data Allowance and the excess usage charges which may apply), we refer to the data usage details that have been measured by us. You acknowledge and agree that any other software, utilities, equipment or applications for determining your data usage (such as data counters, whether available online or included in the Software) may not be accurate and may result in you inadvertently exceeding your Included Data Allowance and incurring excess data usage fees and charges. If you refer to and rely on those other sources, you do so at your own risk.

## 12. Fees and Charges

- (a) The fees and charges in respect of this Wireless Broadband Service (such as monthly fees, usage charges, Equipment repayments and the like) are set out in the terms and conditions of your Plan, the Schedule of Fees and Charges (by which you are bound) or as otherwise notified to you by us from time to time.
- (b) Monthly recurring charges are charged one month in advance. Usage is billed one month in arrears.
- (c) Subject to clause 120 of this Service Schedule, the fees and charges on your first bill will typically be pro-rated up until the first day of the month that follows the commencement of this Wireless Broadband Service. Whether your Included Data Allowance in connection with your Wireless Broadband Service

will be pro-rated accordingly depends on the details of your Plan. (For example, if your Plan in respect of your Wireless Broadband Service has a minimum monthly spend of \$30.00 and an Included Data Allowance of 3GB, and commenced on the 16<sup>th</sup> day of a month that has thirty (30) days, you will be invoiced \$15.00 in respect of that month. Depending on the details of your Plan, you may be entitled to your full Included Data Allowance of 3GB or a pro-rated Included Data Allowance of 1.5GB).

- (d) You agree that you will contact us if you are unsure of whether your Included Data Allowance will be pro-rated.

### 13. Scheduled Outages

- (a) You expressly acknowledge and agree that Scheduled Outages are a necessary and unavoidable consequence of providing this Wireless Broadband Service.
- (b) We aim to provide you with reasonable notice of any anticipated Scheduled Outage where we believe that the Scheduled Outage may significantly and adversely affect your Service.
- (c) You expressly acknowledge and agree that a Scheduled Outage may be urgent and unexpected and accordingly, we may be unable to provide you with any notice of a Scheduled Outage.
- (d) Without limiting clauses 13(a) to (c) of this Service Schedule, you may experience a Scheduled Outage of several seconds between 11:30pm to midnight each night to enable us to update your daily data usage record.

### 14. Changes to your Plan

- (a) You may request us to change your Plan in respect of your Wireless Broadband Service to another Plan ("**Alternate Plan**"). You acknowledge and agree that:
  - (i) we may refuse your request to change to the Alternate Plan if:
    - A. the terms and conditions of your Plan do not permit you to change to the Alternate Plan; or
    - B. you do not meet the criteria (or any part of the criteria) that we may require you to meet in order to change to the Alternate Plan, which

criteria is determined by us in our sole and absolute discretion and may be notified to you by us from time to time; or

- C. we, in our sole and absolute discretion, believe it to be reasonable to refuse your request to change to the Alternate Plan; or
  - (ii) we may accept your request to change to the Alternate Plan subject to such terms and conditions (including in respect of the date on which the change will be effective) that we may require in our sole and absolute discretion in respect of the Alternate Plan.
- (b) You acknowledge and agree that, without limiting clause 14(a)(ii), depending on the details of your Plan:
  - (i) your Included Data Allowance may, or may not, be prorated if you change to an Alternate Plan; and
  - (ii) an early termination fee may apply if the Alternate Plan has a monthly recurring Charge which is less than the monthly recurring Charge in respect of your Plan immediately prior to changing to the Alternate Plan; and
  - (iii) different fees and charges may apply to the Alternate Plan,and you agree that you will contact us prior to requesting to change to the Alternate Plan if you are unsure of your liabilities that arise upon a change to the Alternate Plan.
- (c) For the avoidance of doubt, you will not be required by us to change to the Alternate Plan if you do not agree with the terms or conditions that we advise you will apply in connection with your change to the Alternate Plan.

## **15. Your Obligations**

Without limiting any of your other obligations in the terms and conditions of your Plan or in any other clause of this Contract or in, you must ensure that:

- (a) this Wireless Broadband Service is only used for personal or business use;
- (b) this Wireless Broadband Service (including any SIM card that is provided in connection with this Wireless Broadband Service) is not used in connection with any Equipment which switches or reroutes calls to or from the network of any of our suppliers;

- (c) voice calls are not made, or attempted to be made by using this Wireless Broadband Service (including any SIM card that is provided in connection with this Wireless Broadband Service);
- (d) this Wireless Broadband Service is not used to establish any point to point data connections with another modem; and
- (e) this Wireless Broadband Service is not used to connect to the internet via a Carrier or Carriage Service Provider (other than us or our supplier)

## **16. Our Obligations**

- (a) For the avoidance of doubt, we are not obligated to monitor your use of this Wireless Broadband Service to determine whether you have exceeded your Included Data Allowance, nor are we obligated to notify you if you are approaching your Included Data Allowance or if you have exceeded your Included Data Allowance (to any extent).  
*TCP Customers: As part of our obligations under the TCP Code, we may monitor your consumption and/or implement alternative credit controls.*

## **17. Termination**

### **(a) Termination**

Without limiting our right to terminate, suspend or limit this Wireless Broadband Service (as set out in the terms and conditions of your Plan or any other clause of this Contract), we may immediately terminate, suspend or limit this Wireless Broadband Service if this Wireless Broadband Service (or any part of this Wireless Broadband Service) is:

- (i) used to transmit, refile or aggregate domestic or international traffic; or
- (ii) used in connection with Equipment that switches or reroutes calls or traffic; or
- (iii) used for, or in connection with, any purpose that it is similar to or in furtherance of the conduct set out in clause 17(a)(i) and (ii) of this Service Schedule.

### **(b) Consequences on Termination**

Without limiting your other obligations on termination as set out in the terms and conditions of your Plan or in any other clause of this Contract, if this

Service Schedule is terminated or expires and is not renewed, you acknowledge and agree that:

- (i) we may require you to, and you must immediately:
  - A. return to us any SIM cards in your possession that have been provided to you by us;
  - B. pay to us all fees and charges that we have advised, or will advise, you are owing to us (including any Early Termination Fee and outstanding Equipment repayments);
  - C. cease using any MSN that has been allocated to you in connection with this Wireless Broadband Service (subject to your right to request the transfer of your MSN to a Carrier or Carriage Service Provider other than us); and
  - D. comply with any reasonable direction that we may give you in connection with the termination or expiry of this Wireless Broadband Service.
  
- (ii) if you do not transfer the MSN allocated to you to a Carrier or Carriage Service Provider (other than us) we may recover that MSN from you (to the maximum extent permitted by Law and the Telecommunications Numbering Plan).

**(c) Early Termination Fee**

- (i) The method of calculating the Early Termination Fee is set out in the terms and conditions of your Plan or available by contacting us on 1300 656 121.
- (ii) You acknowledge and agree that the Early Termination Fee is a genuine pre-estimate of our loss that arises as a result of the termination of your Wireless Broadband Service (or part thereof).

**18. Indemnity**

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- (a) Without limiting the indemnities set out in the terms and conditions of your Plan or any other clause of this Contract, you must indemnify, and forever keep indemnified, us and our Associates, Related Bodies Corporate and Related Entities (and the Personnel thereof) from and against all loss,

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expense, damage, cost (on a solicitor and client basis), penalty, fines, fees and liability, suffered or incurred by, or claimed or awarded against, us or our Associates, Related Bodies Corporate or Related Entities (or Personnel thereof) in connection with:

- (i) any penalty, fee or fine imposed under any Law in connection with a breach or threatened breach of this Contract (including this Service Schedule) by you or of any Law;
  - (iii) the use of, or any other dealings with, any Equipment provided to you in connection with this Wireless Broadband Service;
  - (iv) the use, copying, reproduction, disassembling or other dealings in connection with the Software or Software Documentation;
  - (iii) the negligent or intentional acts or omissions of you or your Personnel; and
  - (iv) any failure by you or your Personnel to comply with any reasonable direction from us or to comply with the terms and conditions of any policy or procedure that we required you to comply with.
- (b) In respect of the indemnities given in this Service Schedule in favour of a party that is not a party to this Contract:
- (i) the indemnities are intended to be, and are, directly enforceable by each such person;
  - (ii) we act as agent for each such person for the purposes of the indemnities; and
  - (iii) the indemnities operate as a deed poll in favour of each such person.

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## **19. Your Welcome Pack**

- (a) Please refer to your Wireless Broadband Welcome Pack for all your account management contacts and support numbers.

- (b) In the event of any inconsistency between this Service Schedule and your Wireless Broadband Welcome Pack, this Service Schedule prevails.