

USER AGREEMENT TERMS AND CONDITIONS FOR **nbn™** INTERNET SERVICES

PARTIES

AUSTRALIAN NATIONAL TELECOM PTY LTD, TRADING AS ANT COMMUNICATIONS (ANT) as the Service Provider (“Service Provider”) And

THE INDIVIDUAL OR COMPANY as the Applicant (“Applicant”)

THESE TERMS AND CONDITIONS APPLY TO THE USE OF ALL PACKAGES.

Agreement to Supply NBN Co Limited Internet Service

Australian National Telecom Pty Ltd agrees to provide, as a registered Retail Service Provider for NBN Co Limited, Internet Services to the Applicant in accordance with the approved ANT standard form of Agreement (SFOA).

If you require more than one service from ANT, then each service will be provided under the terms and conditions of the SFOA for that service

We reserve the right to reject any application without providing reasons.

Term of Agreement

The Term of this Agreement commences on the Commencement Date for the number of months nominated in the contract. At the expiration of the initial Term, the Agreement will automatically revert to a casual month by month contract, requiring 30 days written notice to the other party of its intention to terminate the Agreement.

Variations

We may change our Terms & Conditions at any time, and are not required to give you any prior notice unless a change is detrimental to you. In such circumstances we will notify you by email and/or SMS including a notification on your “My Account” portal 30 days prior to the implementation of the change.

Notifications

All notifications will be send via the Ant Customer Portal <https://myaccount.ant.com.au/login/> and an email to your nominated preferred email account and/orSMS. It is your responsibility to regularly check your usage and any notifications in the portal.

The Equipment

ANT will arrange for the installation of the equipment for the Applicant with NBN Co (nbn™). ANT through nbn™ will provide to the applicant suitable equipment to access the internet that may vary from time to time. Title of the nbn™ provided equipment remains the property of nbn™.

Should you at any time move from the premises, the nbn™ equipment must remain at the installation address.

The Network Terminating Device provides one Ethernet connection per subscribed internet service. If you wish to have Wi-Fi coverage to share the internet connection around the premises you will require an nbn™ ready Wireless Router.

You can provide your own compatible nbn™ Wireless/Router or you can purchase one from ANT

You must provide a suitable power supply (240 volt). If using alternate power, a modified sine wave inverter and a surge protector must be used. A suitable environment must be provided for the equipment to be used for The Service.

If your equipment does not comply with all laws, directions of Regulators or ANT's reasonable directions, ANT may disconnect that equipment from the Service immediately in an emergency but otherwise will try to give you reasonable notice before disconnection.

You must allow only approved ANT/ nbn™ personal or agents to service, modify, repair, and replace any of the supplied equipment.

Protection of nbn™ Equipment labelling

The Applicant must not, interfere with, alter or deface any labelling, identification or trade mark affixed to any ANT/ nbn™ Equipment.

Location of nbn™ Equipment

The Applicant must, at any time and on request from ANT or nbn™, provide the location of any nbn™ Equipment which is in the Applicant's possession or control.

Access to nbn™ Equipment

The Applicant has to: provide ANT, nbn™, the Personnel of nbn™ the Managed Service Provider and the Personnel of the Managed Service Provider with safe and timely access to any premises owned, controlled or occupied by the Applicant at which any part of the nbn™ Network, including the nbn™ Equipment, or any other item that is owned or controlled by nbn™ or the Managed Service Provider is or will be located; and where that access is required by nbn™ to:

- supply any ordered Product;
- deliver, install, connect, inspect, reposition, modify, replace, maintain, repair, service, disconnect and remove that part of the nbn™ Network, including any nbn™ Equipment, or any other items owned or controlled by nbn™ or the Managed Service Provider; and
- exercise any of its rights or perform any of its obligations under and in accordance with this Agreement, during the Term and for so long a period after the expiry or termination of this Agreement as is necessary for nbn™ to exercise its rights and perform its obligations under this Agreement,

Wireless Routers

You may purchase equipment from ANT for use with the Service. The manufacturer's warranty in any such equipment and title to that equipment passes to you when you pay for it or if offered as part of a fixed term contract at the completion of that contract. Should you cancel your contract early then you will be required to pay the original purchase price for the equipment. Risk in that equipment passes to you on delivery.

Please note that ANT will only offer full technical support for any hardware provided and dispatched by ANT. You accept this as a term of the Service.

BYO (Bring Your Own) Router

ANT limits the extent of support for BYO users to best efforts. Due to the flexibility the service offers users, it is not feasible or practicable for ANT to offer technical support other than best effort.

Whilst the BYO service is designed to allow users to bring their own device, under no circumstances does ANT offer any guarantee or assurance that all BYO Devices will be compatible and function with the service provided by ANT.

Support available through BYO is at a network level.

Support

ANT will provide ongoing support to the applicant by providing reasonable technical and operation advice and assistance when requested on ANT's support number or by raising a ticket via the "My Account" portal, details of hours of technical support are listed on the ANT website, <https://ant.com.au/contact/>

Speed

All speeds that have been quoted for nbn™ plans are the theoretical access speeds. This means that your plan will allow your connection to reach a maximum possible speed, for example, 100Mbps/40Mbps for a Fibre connection. This does not however guarantee that the devices in your home will be able to achieve the quoted speed, as the theoretical speed only refers to the speed of the overall connection that runs to your premises. Speeds for customers will be dependent on location, signal strength, volume of traffic through the network, your equipment, software and download source, if you're using Wi-Fi to connect devices to the nbn™, or the number of devices you have connected at any one time. For these reasons you should not expect your actual speed to be at or near the theoretical maximum.

While we will always make sure that you are getting the most out of your nbn™ connection, we are unable to guarantee that you will always receive the full speeds of your plan.

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Warranties

Subject to the *Trade Practices Act*, nbn™ as the owner of the equipment will maintain and repair their equipment including the Network Terminating Device (NTD) which is installed at the Applicants premises.

Subject to the *Trade Practices Act*, ANT provides a 12 month Warranty Period on any ancillary associated

equipment purchased separately by you, from ANT. If you notify ANT of a fault within the Warranty Period, and you return the equipment to ANT, ANT will repair or replace the equipment at no cost to you (other than for postage costs for the return of any equipment).

ANT as NBNCo Limited's agent will charge you for the repair or replacement if the fault was caused by

1. any non ANT/ nbn™ equipment (such as your computer);
2. any interference with or modification to the modem or other equipment or a failure to use it in accordance with instructions;
3. power surge, lightning or any other circumstance beyond nbn™'s control; or
4. Misuse or vandalism of any of the equipment, including but not limited to, using the Modem on a generator without a surge protector, leaving the modem in place where it can be damaged by the elements, moisture, dust or excessive heat.

After the expiry of any Warranty Period, the operation of the ancillary associated hardware, and any repairs to it, will be your responsibility. If you request ANT to repair or replace your ANT supplied ancillary associated equipment, ANT will charge you a fee.

Maintenance

ANT will try to conduct Scheduled Maintenance on the ANT Network outside normal business hours (Australian Eastern Standard Time) but may not always be able to do so.

ANT is not responsible for rectifying any fault in the Service that arises in or is caused by a Supplier Network, your equipment or other equipment or facilities beyond the boundary of the ANT Network.

Maintenance and faults

(a) ANT on behalf of nbn™ will use reasonable endeavours to notify the Applicant in advance of any scheduled nbn™ Maintenance that may cause service interruptions.

(b) Notwithstanding clause (a), nbn™ may interrupt or suspend the supply of Internet Products to perform nbn™ Maintenance without obtaining the consent of or notifying the Applicant

(c) The customer has to notify ANT of any faults in the nbn™ Internet Service.

(d) We aim to provide, but do not guarantee a fault free service. When a fault does occur we will rectify it as quickly and efficiently as possible.

RETURN OF GOODS

Should the Applicant order ancillary equipment in error, and they do not require the equipment, the Applicant can return the goods, unopened, in original packaging and in new condition within 7 days from receipt of the goods to receive a refund for the cost of the equipment (less postage and handling)

SERVICE

You must pay the charges for The Service and any additional charges set out in the Application and in accordance with any applicable provisions of the Service Description. Charges for the Service accrue from the Commencement date.

Privacy Policy

ANT will not disclose any of your personal information other than outlined in our Privacy Policy without your

express permission and will not sell private information to other parties. Further details of ANT's Privacy Policy are available on the ANT website www.ant.com.au.

Confidentiality

ANT and you each agree to keep confidential the other's confidential information to the extent that the disclosure is required by law or government authority or for any purpose, other than to the extent necessary to perform its obligations or exercise its rights under the Agreement.

Application Processing

The Applicant agrees that for the purpose of processing the Applications, the Service Provider may exchange information and conduct a credit check with an authorised credit reporting agency to obtain information on the credit record of the Applicant or any associated person ("Credit Record") and may request such other information, assistance or requirement as the Service Provider may believe is necessary for approving an Application.

Appointments

For the purposes of the Service, the Service Provider may from time to time appoint other persons or entities to manage or carry out certain parts of the Service on its behalf and may remove or replace any persons or entities so appointed.

Bank Authorities

The Applicant will provide the Service Provider with all bank authorities as the Service Provider may reasonably require for the operation of the Service.

Payment

For the duration of the Term, the Applicant shall pay to the Service Provider the Service Fee monthly in advance. Payments are due on your designated billing date. Payments must be by Direct Debit from the Applicants nominated bank account or credit / debit card. Your first months payment may include a pro rata payment to align with your designated billing date.

Alternatively, you may pay six months in advance as nominated on your Application by cheque, money order or EFT.

ANT may re-issue any invoice if any error is later discovered. If you have overpaid as a result of a billing error, you or your account will be credited or refunded with the overpayment within the next billing cycle after your request and after deduction of any other amounts due by you to ANT.

If you fail to make your payment by the due date or your financial institution fails to honour your payment, you must pay the amount owing directly to ANT. A late fee of \$15.00 will apply immediately. Should further failure to honour your payment occur then an additional Dishonour fee of \$25.00 fee will be applied. Your financial institution may also charge you an additional dishonor fee. If your payment is not honoured you will receive a notification of a second attempt to process the payment. If the second payment is dishonoured or you have not contacted our office to make suitable arrangements then your service may be suspended after 5 business days of the notification. At the time of suspension, you will receive a further notification advising that if your account is not paid or you have not contacted the office to make suitable arrangements within the next 5 business days your account will be disconnected..

Billing Disputes

If you dispute an amount invoiced by ANT it must be in accordance with this clause

If you raise a valid billing dispute in respect of part of an ANT invoice, you agree that the invoice is valid and payable and you must pay any undisputed amount included in the invoice.

You may only make a claim if you have raised a valid billing dispute by making a written request to ANT within 60 days of the date of the relevant invoice to billing@ant.com.au

If following investigations it is found that the charges are not incorrect you will pay any outstanding amount within five business days.

Facsimile or Electronic Versions

The Parties agree that a validly executed facsimile or electronic copy of the Agreement or part thereof is accepted as a valid original.

Authority to Sign

The Applicant warrants to the Service Provider that it has the necessary corporate power and has obtained all necessary consents to enable it to enter into and carry out its obligations under this Agreement; the entry into or performance of this Agreement does not constitute a breach of its Constitution or any of its contractual documents; this Agreement creates legal, valid and binding obligations on the Applicant enforceable in accordance with this Agreement **Assignment/Subcontracting**

The Applicant may not assign or purport to assign any of its rights and obligations under this Agreement, except in the event of a sale of business, without the prior written consent of the Service Provider.

Intellectual Property

The Applicant agrees that there is no assignment of Intellectual Property rights in the Services, operation manuals, users manuals, equipment, advertising, promotional materials, communications systems, software, database, accounting management systems, and know-how which are made available pursuant to this Agreement, and arrangements, agreements and relationships between the various Participants

Logos and Trade Marks Logos

The Applicant must not claim any right in or to the logos of the Service Provider or the Network Providers or business partners of the Service Provider in any manner.

Trade Marks

The Applicant must not

1. Attempt to register or reserve for registration any trademarks similar to trade marks registered, reserved for registration or owned by the Service Provider or a Network Provider, including those contained in any promotional material provided to the Applicant in accordance with this agreement or which the Applicant is otherwise permitted to use ("Trade Marks")
2. Dispute the Service Provider or a Network Provider's ownership of its Trade Marks;
3. Intentionally or deliberately reduce the value of the goodwill attached to the Trade Marks;
4. Incorporate part of the Trade Marks into an Applicant trade mark;
5. Use or display Trade Marks in relation to goods or services which are not associated with that of the Service Provider or Network Provider;
6. Use a Trade Mark in any way not authorised by agreement or in authorised written notices from the Network Provider or the Service Provider; or
7. Assist or permit another person to do any of the above.

Governing Law and Jurisdiction:

This Agreement will be governed by and be construed in accordance with the laws of New South Wales, Australia, and the parties agree to submit to the non-exclusive jurisdiction of the courts of that jurisdiction.

Internet Obligations

The Applicant shall comply with all reasonable directions by the Service Provider with respect to access and use of the Service in accordance with our Acceptable Use Policy, or any restrictions imposed by nbn™ as part of their Fair Use Policy that they may change from time to time.

The Applicant acknowledges that the Provider does not and cannot in any way supervise, edit or control the content and form of any information or data accessed, with the exception of limiting file sharing services through the Service and the Service Provider shall not be held responsible in any way for any content or information accessed via the Service.

The Service Provider disclaims all or any liability for:

1. access by the Applicant to any material on the Internet that the Applicant finds offensive,
2. upsetting, defamatory or personally offensive;
3. access by the Applicant to any sites that may be illegal or pornographic;

The Applicant shall refrain from disruptive activities which may include, but are not limited to, the circulation of any unsolicited publicity or advertising material, propagation of computer worms and viruses, use of the service to gain unauthorised access to any other computer system, the sending of harassing, obscene, offensive or threatening electronic mail, forgery of electronic mail and the placement or transmission or storage of any defamatory or illegal material on the Internet.

The Applicant will not access, nor permit any other party to access, the Service for any purpose or activity of an illegal or fraudulent nature.

The Applicant will not reproduce, distribute, transmit, publish, copy, transfer or commercially exploit any information accessed through or received from the service that would infringe the intellectual property right of any person

If a person using the Service is under 18 years of age, they must obtain permission from their parents or guardian to access the Service.

The Applicant must immediately comply with ANT's request to stop doing something which ANT reasonably believes is contrary to the clauses under Internet Obligations

Right to Suspend or Cancel

ANT may, without liability, immediately cancel the service or one or more individual services or suspend or downgrade the service or one or more individual services at any time if:

1. there is an emergency (for example, in the event of a failure in any part of the ANT network, there may not be sufficient capacity to restore all ANT satellite customers, in which case, ANT may cancel the service or one or more individual services);
2. doing so is necessary to allow ANT or a Supplier to repair, maintain or service any part of the ANT Network or a Supplier Network used to supply the service or the individual service;
3. You breach your obligations relating to the your internet obligations or otherwise misuse either the service or an individual service;
4. ANT reasonably believes there has been an unusually high use of either the service or an individual service;

5. Any amount owing to any ANT is not paid by its due date, ANT gives you notice requiring payment of that amount and you fail to pay that amount in full within five business days after ANT gives you that notice;
6. ANT is required to do so to comply with an order, instruction or request of a Regulator, an emergency services organisation or any other competent authority
7. A Supplier terminates its agreement with ANT, or ceases to supply services to ANT, and ANT is not able to provide either the Service or an Individual Service using services supplied to ANT by an alternate Supplier on terms reasonably acceptable to ANT;
8. You suffer an Insolvency Event;

Consequences of Cancellation

If the Service or an Individual Service is cancelled by the Applicant during the Committed Term, then the Applicant must pay to ANT monies owed for the remainder of the Committed Term. Ant requires 30 days notice in writing of your cancellation to sales@ant.com.au. Any outstanding charges, early termination or cancellation fees will be processed upon receipt of your cancellation.

IP Phone

ANT provides and supports its own IP Phone Service on UniD Port (Data Port) on the ANT nbn™ network.

Definitions: In this document:

“Agreement/Contract” means the forms supplied to and completed by the applicant for the supply of equipment and the provision of Internet services by the Service Provider

“Anytime Data Allowance” means the Monthly Data Allowance that can be used by a Customer at any time of day during each calendar month.

“Business Day” means a day that is not a Saturday, Sunday, bank holiday or public holiday in New South Wales.

“Commencement Date” means the date that the applicant has received the goods and had connection to the internet approved by the Service Provider.

“Data Allowance” means the amount of data (encompassing both uploads and downloads) that is provided in accordance with your selected Service Option.

“Data Speed” means the speed at which data bits, comprising both protocol headers and data payload, are carried by an Individual Service.

“Data Usage” means the amount of data (measured in MB) that has been downloaded to or from your modem in any given month.

“Equipment” means the physical equipment delivered to the applicant

“GST” has the meaning given in *A New Tax System (Goods and Services Tax) Act 1999 (as amended)*

“Payment Obligation” means all monies payable by the applicant under the contract and the terms and conditions.

“PIN” means personal identification number or letters supplied by the Service Provider to the Applicant to enable the Applicant to activate the system and obtain delivery of the Services from the Service Provider.

“Monthly Charges” means the monthly recurring charges listed as Monthly Charges in the Application, which may include items such as bandwidth, data allowance, Internet access and/or Maintenance.

“Monthly Data Allowance” means the amount of maximum data usage (encompassing both uploaded and downloaded data) that can be used during each calendar month as selected by the Applicant when entering into the Agreement or as modified from time-to-time. Data is measured in MBs.

“One Off Charges” means the charges listed as one-off charges in the Agreement

“Off Peak Data Allowance” means that portion of Monthly Data Allowance that can be used by a Customer during each calendar month in off-peak times (Midnight to 7.00 AM Eastern Standard Time) as selected by the Customer when entering into the Agreement or as modified from time-to-time.

“Peak Data Allowance” means that portion of Monthly Data Allowance that can be used by a Customer during each calendar month in peak times (7.00am to Midnight Eastern Standard Time) as selected by the Customer when entering into the Agreement or as modified from time-to-time.

“Shaping” means a reduction in Service Option speed to 128kbps/128kbps for nbn™ Satellite and 256kbps/256kbps for nbn™ Fibre & Fixed Wireless once your Monthly Data Allowance is reached. Your Service speed will revert to your original Service Option upon your commencement anniversary date.

“User Manual” means a document that teaches the applicant the procedural requirements to use the Services and provides instructions and processing of various transactions, as amended and republished by the Service Provider from time to Time.

“Website” means the site on the World Wide Web operated by the Service Provider in connection with the Service - ant.com.au