

These terms & conditions are a Standard Form of Agreement formulated for the purposes of Section 479 of the Telecommunications Act 1997.

People Telecommunications Pty Ltd (ABN 41 091 714 699), People Mobile Pty Ltd (ABN 36 092 722 631), Swift Broadband Pty Ltd (ABN 20 094 916 935) or Swiftel Communications Pty Ltd (ABN 18 090 877 008) ('We', 'Us' or 'Our') will supply the customer ('You' or 'Your'), services on the terms & conditions set out below (the 'Agreement'). Undefined words have the same meaning as in the Telecommunications Act, 1997. Unless specified, these terms & conditions apply to all Services provided by Us.

1.0 service description

1.1 We will connect Your Service(s) to the network as soon as it is reasonably practicable after Our acceptance of Your written form, or online internet form or voice recorded, application and its related parts ('Application') & We will use all reasonable efforts to maintain the Service while You comply with this Agreement.

1.2 We will provide the telecommunications service(s), and in the case of non-mobile telephone services a standard (not priority) service, as indicated in the Application (the 'Service') to You in Australia or New Zealand through such Carrier or supplier network or networks as We nominate from time to time directly with the Carrier, supplier or network operator (the 'Carrier' or 'Supplier'). Where carriage is supplied, the quality of the carriage of the Services will be the same as that of the Carrier or Supplier.

1.3 Where We are providing mobile Services, We will provide You with a SIM card to use in relation to the Services. Notwithstanding clause 17, property in Your SIM card remains at all times with Us.

1.4 Where We are transferring mobile Services under mobile number portability arrangements, the SIM card provided in relation to the Services will be activated upon Your request for activation. If no such activation request is received within 15 business days of dispatch, We will activate the SIM card on Your behalf.

1.5 Where We are providing data services, the access component of the relevant data service &, optionally, a

rented CPE router, are supplied to Us by a third party(s) as a wholesale Supplier.

1.6 You must not resupply any of the Services without Our express agreement in writing.

1.7 Where We are providing peoplenet to You, Your use of it is governed by both the terms within this Standard Form of Agreement & the terms & conditions as laid out in the acceptance screen of peoplenet. Where there is any exclusion or inconsistency between the terms & conditions of peoplenet & the Standard Form Of Agreement, the latter shall prevail, to the extent of any such exclusion or inconsistency.

2.0 charges & payment

2.1 Charges for the Services are determined in accordance with the rate plan, or by You accepting to use Our services when You have accessed Our online portal "peoplenet", or such other manner specified in the Application. Charges for people fax & people conferencing services are as agreed between You & Us in writing. We may change the amount of these charges or add new charges from time to time in accordance with clause 6. You will be invoiced for all calls, services, usage, or other charges on a monthly basis with 14 days trading terms for payment of accounts thereafter. You must pay all invoiced amounts by the date specified on the relevant invoice. If You have nominated automatic direct debit, Your bank account, or credit card will be charged 7 days from invoice date. Charges that do not appear on Your monthly invoice may appear on future accounts due to processing procedures.

2.2 Where We are providing mobile Services, monthly You must also pay Us:

(a) charges for calls You have made to the extent those charges exceed the Minimum Monthly Spend as set out in the Application; &

(b) charges for value added Services You have used, including 3G Mobile Services,

c) charges for mobile or wireless data services You have used.

2.3 Any charges billed to You after the cancellation date from Your previous service provider will be due & payable by You to that provider

2.4 Our charges to You may involve fees for connection, initiation, transfer, relocation or cancellation of any Service(s). Such charges, if not

specified in accordance with the rate plan or such other manner specified in Your Agreement will be charged to You at cost to Us from the Carrier.

2.5 Overdue accounts will incur a handling charge calculated at the greater of \$5 or 1.5% per month on amounts outstanding or part thereof. We may charge You interest on overdue amounts at 3% above the per annum Commonwealth Bank Corporate Overdraft Reference rate applicable at the date of the bill, calculated daily.

2.6 We may, without notice, deactivate or cancel all or part of Your Service if any amount is not paid by its due date. We reserve the right to restrict any Service at any time if We feel the account has gone over its credit limit or the Service appears fraudulent. Discounts may also be revoked during the overdue period. If any amount has not been paid by the due date We reserve the right to deduct any unpaid amount (or part thereof) from Your credit card or bank account nominated on the application form.

2.7 Bill reprints are charged at \$15 per copy. Bill reprints required from Our Recoveries Division are charged at \$50 per copy.

2.8 If You default under this Agreement, We may use or disclose any personal information collected & recorded in relation to You to assist Us in the process of debt recovery. Personal information includes personal identifying details such as Your name, address, date of birth, employers & drivers' license details & status of any of Your accounts or related bodies corporate, Your credit history, & information about Your creditworthiness or capacity.

2.9 All payments made using either American Express or Diners Club credit cards will be subject to a 3% surcharge. Payments made using any other credit card (i.e. MasterCard or Visa) will be subject to a 1.5% surcharge.

2.10 In consideration of Us having agreed to supply the services to You, the person signing this agreement ("the signatories") on Your behalf hereby jointly & severally guarantee the payment on demand of all monies which are or shall hereafter become due to Us by You. This guarantee shall be a continuing guarantee & shall not be affected by Us giving time or any other indulgence to You, nor shall any of Our rights to sue or report Your



details to a credit reporting agency be affected hereby.

2.11 Where We are providing mobile Services, You must notify Us immediately if there is any problem with the Service or SIM card or if Your mobile phone or SIM card is lost or stolen. Failure to notify Us of the loss or theft will result in You being liable for all charges from the date the SIM card was lost or stolen up to the date We were notified.

2.12 The following types of calls do not attract a discount, or are ineligible to include as free calls in considering Your minimum spend commitment under the plan of Your Mobile Service: - Faxstream; Calls to 13/12 numbers; connect calls; NDD1; Switched Local; interbranch or intrafleet; data; calls to priority 1300; 13/1800 numbers; satellite, conferencing; roaming; diversions or premium services.

2.13 Where only a single Service, such as a form of ADSL or dial-up, is supplied to You by Us then We will charge You \$2.50 each month where You do not pay Us by direct debit.

2.14 If a service fault is logged and a technician attends your premises: if the issue is found to be with your equipment or the service is found not to be at fault we may charge you a fee for the incorrect call-out.

2.15 If You do not have a registered ABN and/or this has not been communicated to Us and You have not chosen to receive Your monthly invoice by email or online then We will charge you \$1.50 each month for a paper invoice. It is Your responsibility to ensure that You provide us with Your most up to date email address.

2.16 If You do not have a registered ABN and/or this has not been communicated to Us and You do not pay Us by direct debit then We will charge You \$2.50 each month.

3.0 GST

3.1 Unless expressly stated otherwise, the charges payable for the Services under this Agreement are exclusive of GST. You must pay to Us, 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 any part of the charges for the Services is payable. We will issue a tax invoice to You for the supply of those Services at or before that time.

4.0 transfer to Us

4.1 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 By signing the Application or any other agreement for the provision of Services by Us:

- You authorise Us to sign on Your behalf & in Your name forms of authority to Your current supplier of Services to transfer the Services into Our name.

- You will on request give written instructions yourself to Your current supplier to transfer the Services from Your name to Ours.

- You will immediately pay to Your current supplier all amounts owing to it for the Services being transferred up to the time of transfer to Our name

4.3 You agree that for Us to provide the Services to You should You or Your nominee apply through Our online applications, peoplenet or on www.peopletelecom.com.au,

constitutes Your agreement to Our terms & conditions. You should ensure that both You & Your nominee have read & understood Our terms & conditions.

4.4 If You are transferring Services to another customer, or You are receiving Services transferred from another customer, the billing of the transferred Services will begin on the following bill cycle after the transfer has been completed

5.0 transfer from Us

5.1 If in the future You ask Us or another provider to transfer any of the Services to another supplier, then You remain responsible to Us for the amount payable for the Services up to the time when We transfer those Services to another supplier, & You will immediately pay Us the amount on receipt of Our invoice.

5.2 The provision of Services ceases when We transfer those Services to another supplier.

5.3 We will bill You for those Services within the next normal billing period.

5.4 If after We become aware of any other proper charges (including fees payable to any other supplier) for those Services up to the date of transfer, then You will immediately pay Us all such amounts on receipt of Our invoice.

6.0 amendments to the terms & conditions

6.1 Any amendments to the terms or conditions for Your Services (other than for charges for Your Services (refer Clause 6.3) made during the Fixed Term of Your Agreement will not be applicable during the Fixed Term of Your Agreement. The terms and conditions applicable are those under Our Full SFOA as published on Our web site www.peopletelecom.com.au at the date You entered into, or renewed, Your Fixed Term Agreement.

6.2 Other than as noted in Clause 6.1, these terms & conditions, including charges for Services, may be varied, altered, replaced or revoked at any time by Our giving 21 days notice to You in writing and will apply

(a) in respect of charges for Your Services, from the next billing cycle 21 days after such changes in charges have been notified by Us; and,

(b) in respect of all other amendments, from 21 days when such terms have so notified.

6.3 If under Clause 6.2, you are notified of any increase in charges for Your Services during the Fixed Term of Your Agreement, you have the right to terminate Your Agreement providing you advise Us in writing within 42 days from the date of the notice. If You terminate Your Agreement under this clause, You will not be charged any termination fees under Clause 11, but You are still responsible to pay for:

(a) usage and / or network access charges incurred up to the date on which Your Agreement is terminated; and,

(b) any outstanding amounts that cover installation and / or equipment costs (where such equipment can be used in connection with the services provided by other suppliers).

6.4 If You have requested changes to the charges for Your Services, these changes will only apply from the following billing cycle after We have agreed to such change.

6.5 Without notice, providing that We do not amend or vary the characteristics of Your Services, We may at any time, change the Carrier or Supplier, or the Carrier's or Supplier's products.

7.0 privacy

7.1 We adhere fully to the *Privacy Act*. Our privacy policies set out the way in which We collect, use & disclose information about You. For a full copy



of Our privacy policy please visit Our website at www.peopletelecom.com.au & click on the privacy link.

8.0 information

8.1 You consent to Us & Our Carriers or Suppliers exchanging Your information &/or details & the Carrier or Suppliers, We & Our respective related bodies corporate may all use Your details for Our own purposes.

8.2 You authorise the Carrier or Suppliers to disclose to Us all records, & in particular exchange line, mobile or network details, telephone usage or accounts information, communication usage records & call event records.

8.3 You consent to Us disclosing Your information &/or details to any other Australian or New Zealand telecommunications service provider or supplier who is a member of the Australian Telecommunications Fraud & Risk Association where We, or the provider or Supplier has reasonable grounds for suspecting that You (or any user of a service provided to You) have been engaged, or are likely to engage, in fraudulent activity in relation to the Services.

9.0 credit check

9.1 You will supply without delay all the necessary information to check the worthiness of Your credit rating.

9.2 If We consider it relevant to assessing this application, You agree to Us obtaining from a credit-reporting agency a credit report containing personal information about You.

9.3 You agree that We may give to any credit provider & / or credit-reporting agency any information contained in the Application. You also agree that We may seek from any credit provider & / or credit-reporting agency any credit report (whether commercial for any named business entity, or consumer for any named individual) on all parties named in the application. You acknowledge & understand that such information can include any information regarding Your commercial or consumer credit worthiness, credit history or credit capacity that credit providers & / or credit reporting agencies are allowed to give or receive under the *Privacy Act*.

9.4 You authorise & permit Us to make independent enquiries of third parties concerning Your financial standing &, for this purpose, authorise & permit third parties to supply such information regardless of any confidentiality or

privilege which applies to the information sought.

10.0 limitation of liability

10.1 To the full extent permitted by law & subject to clause 10.2 We will not be liable in any circumstances, however arising, to You or any person claiming through You in contract, tort, or otherwise (including negligence, wilful or unlawful acts or omissions) for: (a) any economic loss or damage & in particular (without limitation), any loss of revenue, profits, actual or potential business opportunities, contracts or anticipated savings of profits; or (b) any indirect or consequential loss; or (c) the acts of omissions of the Carrier or any of Our servants, officers, agents, contractors or subcontractors or the failure of, or fault or defect, in any contractors or subcontractors or the failure of, or fault or defect, in any telecommunications service, network, facilities, equipment or service, used by Us in supplying telecommunications services;

or (d) Our failure to continue to provide the Service to You for any reason whatsoever. You acknowledge that We do not guarantee continuous fault free provision of the Service.

10.3 We accept liability to You in respect of any rights conferred on You by the *Trade Practices Act 1974* & similar legislation where not to do so would be illegal, or would make any part of this clause 10 void or unenforceable. Otherwise, We exclude all conditions & warranties implied into the Agreement & limit Our liability for any non-excludable conditions & warranties, where permitted by law to do so, at Our option, to:

(a) in the case of services (i) the supply of the services again or (ii) the payment of the cost of having the services supplied again; &

(b) in the case of goods (i) the replacement of the goods or the supply of equivalent goods; (ii) the repair of the goods or (iii) the payment of the cost of replacing the goods or acquiring equivalent goods.

10.4 You agree to indemnify & keep Us indemnified from & against liability & all loss & damages caused directly or indirectly by any breach of this Agreement by You or from any claim or action arising directly or indirectly out of any negligence, fraud or wilful act whatsoever, whether by You or any of

Your servants, officers, agents, contractors or subcontractors.

10.5 To the extent permitted by law, You agree that Your indemnity shall survive the termination of this Agreement, against any actions, claims, expenses, demands, costs, damages, proceedings or any other liability whatsoever suffered by Us in connection with You using the services or CPE (as defined under clause 17) including, without limitation, You using or incorporating the services or CPE in other products used by You or supplied to You.

10.6 To the extent permitted by law, the provisions of this clause 10 also apply for the benefit of the Carrier.

10.7 In connection with legally requested Interception of Your service, You indemnify Us for all costs, damages or expenses suffered by Us as a result of Your negligent, wilful or unlawful acts or omissions.

10.8 Internet services can be affected by variables such as distance and the quality of cable between the exchange and your premises, network traffic and signal strength. As such, we do not guarantee that your broadband service will reach the maximum theoretical connection speed at any time.

11.0 Term of the Agreement, suspension, cancellation, or part cancellation of a product, or termination

11.1 In respect of each Service set out in the Application, this Agreement will commence on the date of its signing by You.

11.2 If the Agreement is a non fixed-length agreement, We will provide the Service to You in accordance with the Agreement until the Service is cancelled in accordance with clause 11.5 below.

11.3 If the agreement is a fixed-length agreement, We will provide the service to You in accordance with the Agreement:

(a) for the Fixed Term of Your Agreement, or

(b) until the service is cancelled in accordance with clauses 11.4 or 11.6 below, or

(c) if neither You nor We cancel the service at the end of the Fixed Term of Your Agreement (see clause 11.4 below), until the Service is cancelled in accordance with clauses 11.5 or 11.6 below.

11.4 If the Agreement is a fixed-length agreement and neither You nor We cancel the service at the end of the

Fixed Term of Your Agreement, the Agreement becomes a non-fixed length agreement and We will continue to supply the Service to You on a month-to-month basis in accordance with the Agreement. If You do not wish to continue to use the Service on a month-to-month basis after the end of the Fixed Term of Your Agreement, You must inform Us (in accordance with clause 11.5 below by giving Us 30 days notice in writing before the end of the minimum term that You wish to cancel the Service at the end of the Fixed Term of Your Agreement. If We choose not to provide the service to You after the end of the Fixed Term of Your Agreement, We will give You notice of this by giving You 30 days notice in writing before the end of the Fixed Term of Your Agreement. If We wish to change the terms of the Agreement, including any fees or charges, at the end of the Fixed Term of Your Agreement, We will give You notice of this (in accordance with clause 6.0) before the end of the Fixed Term of Your Agreement.

11.5 If the Agreement is a non fixed-length agreement:

(a) You may cancel the Service at any time by giving Us 30 days notice in writing; or

(b) We may cancel the Service at any time by giving You 30 days notice in writing.

11.6 We may terminate this Agreement if You breach any term or condition of this Agreement or if a receiver or receiver & manager is appointed over any of Your property or assets, or if a liquidator or provisional liquidator is appointed to You or if You enter into any arrangement with Your creditors or You assign or otherwise deal with Your rights under this Agreement without Our prior written consent or, in the case of an individual, You die.

11.7 We may suspend the Services or any of them at any time without notice if any of following occur:

(a) We are not satisfied with Our credit assessment of You;

(b) If You breach any of the terms & conditions of this Agreement Your Services will be suspended. If You have failed to remedy the breach within 10 days of Us providing written notice to You of the breach Your Service will be terminated;

(c) You fail to pay amounts owing to Us by the due date;

(d) We are unable, for any reason

including the default of a Carrier, to provide the whole part of the Service; (e) You become subject to any form of insolvency administration.

11.8 If We suspend the Services, You will still remain liable for all monies due to Us under the Agreement, during the period of such suspension.

11.9 If Your Service has been suspended by Us due to non compliance with terms & conditions of the Agreement a fee may be payable to re-activate Your Services.

11.10 If this Agreement is cancelled by You, or terminated by Us:

(a) any right which We have in respect of Your obligations under the Agreement that are not fulfilled when the Agreement is ended, will continue to exist;

(b) You must pay Us all reasonable costs & expenses incurred by Us in relation to the Agreement ending;

(c) Where We are providing mobile Services:

(i) all of Your rights to receive the Services from Us will end & You must return to Us the SIM Card that We provided to You;

(ii) You must pay amounts due at the time the Agreement ends, including the balance of the Minimum Monthly Spends for all months up to the end of the Term.

(iii) You must pay an administration fee of \$250 for each mobile service.

(d) Where We are providing data &/or data access services, such as DSL, ADSL, SHDSL, Ethernet, Wireless Broadband, Personal Broadband, Unwired, Fibre ('Broadband' Services), You must pay amounts due at the time the Agreement ends, including the balance of the Monthly Service Fees as set out on the Application or agreed by Us, including any amount for Service or CPE that was spread over a term, for all months up to the end of the Term, that remain unpaid at the date of Your cancellation. You will be charged for a full months' Service or access fees for the month in which You cancel Your Service.

(e) In addition to any liabilities arising under this clause & where We are providing fixed wire Services, if You terminate the Services before the expiry of the Term or such lesser time as is agreed in writing by You & Us, then You will pay Us a genuine estimate of the loss We will incur from the early termination of this Agreement. The amount of the loss will be calculated as

being the difference between the charges billed to You up until the date of termination & the charges that would have been billed to You for the Services supplied to You until the date of termination under an applicable standard rate or pricing plan.

11.11 If We agree to provide a Service for a Fixed Period, then the amount payable for the whole of that Period is a debt owing to Us at the time of entering into the Agreement for which We may bill You even if You cancel the Service or terminate the Agreement before the Term ends.

11.12 Where You have entered into an Agreement to purchase 2 or more of the following products from Us: Mobile GSM, Mobile CDMA, Mobile 3G, Wireless Broadband, Fixed Wire (Inbound, Long Distance & Local), Fax Broadcast, Video & Voice Conferencing or Broadband, & during the Term of Your Agreement You cancel the supply of one of the aforementioned products, the pricing of the remaining product(s) or service(s) will revert to the non-bundled (or non-discounted), & thus adjusted, rate for the Service that We continue to supply to You for the remainder of the Term. The adjusted rate for the continuing service or product will be no more than an additional 20% on top of the pre-adjusted rate.

11.13 Where We are providing Data Services, if this Agreement is terminated in accordance with this clause, the Carrier may arrange for You to be supplied by the Carrier with the Carrier's services that had been supplied by Us, but You acknowledge that the Carrier may not be able to make those arrangements immediately & once the Carrier makes those arrangements, those services acquired by You will be acquired on the Carrier's current rates & terms & conditions & the Carrier will bill You accordingly.

11.14 Where We or Our representative have provided a Connection Bonus (including a technology fund, an innovation fund, a previous provider contract payout, free or subsidised set up or installation costs or handsets or other equipment free of charge or at a subsidised rate) and You cancel the Service or terminate the Agreement before its Term ends, then You will be liable to repay the full amount of the Connection Bonus provided by Us for the Service. We will bill You for the



amount of the Connection Bonus provided to You for the Service.

11.15 Our Customer Care staff and Our product peoplenet, allows You to monitor Your usage and unbilled charges as well as giving You the ability to bar Your services and set SMS alerts for abnormal usage. Notwithstanding the credit collection provisions operable under this clause, We may with Your acquiescence, arrange a repayment plan of Your outstanding debt to Us if You are a consumer customer, who We are satisfied would be suffering from financial hardship should You be asked to pay all Your outstanding debt to Us when normally due.

12.0 removable discount

12.1 Notwithstanding the provisions of clause 11, if We provide a Service at a discount on payment over a Fixed Period & You cancel the Service or terminate the Agreement before that Period ends, then You will be liable to pay the full undiscounted amount for the Service for the Period prior to cancellation & termination. We will bill You for the amount of the discount allowed to You during the elapsed Period on Your next bill.

13.0 confidentiality

13.1 You will keep confidential all information supplied by the Carrier or Us.

14.0 force majeure

14.1 We will not be liable for any delay in the connection of or failure in the operation of Services due to any occurrence reasonably beyond Our control including failure of any link provided by the Carrier.

15.0 entire Agreement

15.1 This Agreement contains Your & Our entire understanding to the exclusion of any & all-prior or collateral agreement of understanding relating to the Services provided whether oral or written. You acknowledge that You have not entered into this Agreement in reliance upon any statement made by Us, other than as expressly contained in this Agreement.

15.2 If any part of this Agreement is found to be invalid or of no force or effect this Agreement shall be construed as though such part had not been inserted & the remainder of the Agreement shall retain its full force & effect.

15.3 To the extent that any Service specific term or condition conflicts with any other term or condition in this Agreement, the term or condition specific to the Service will apply.

16.0 assignment

16.1 We may assign the benefit of this Agreement at any time to a person or corporation nominated by Us, including a Carrier, &, in this event, such Assignee or nominated Carrier shall deal directly with You for the purposes associated with the provision of Services under this Agreement.

17.0 customer premises equipment - meaning PABX, telephone or key system, telephone handset, satellite dish &/or mount, indoor access router, modem, USB modem, sim-box, software, block-up converter and any mounting (CPE), returns, delivery and installation thereof.

17.1 Any CPE You use not provided by Us in relation to the Services must comply with applicable standards & specifications, including those set by the Carrier or Supplier.

17.2 We may substitute any component of the CPE or part of any component of the CPE prior to delivery without consultation with You & may in any respect modify the CPE if, in the reasonable opinion of Us, the substitution or modification:

- (i) will not adversely affect the performance or capacity of the CPE in any material respect
- (ii) will not alter the configuration of the CPE in any material respect; &
- (iii) will not otherwise materially affect Our obligations or prejudice Your rights under this Agreement.

17.3 Risk in any CPE provided to You by Us passes to You upon delivery.

17.4 Title to any CPE does not pass to You until all amounts owing have been paid in full to Us & the cost of such CPE will be held by You in a fiduciary capacity as bailee for Us.

17.5 Title in all intellectual property rights including without limitation, copyright & trade marks in & to any manuals or user documentation supplied with the CPE shall at all times remain Our property.

17.6 You irrevocably grant to Us, Our agents & servants, leave & license without the necessity of giving any notice, to enter at any time on & into premises occupied by You using reasonable force if necessary to

inspect, search for & re-take possession of any CPE in respect to which payment is overdue.

17.7 On the termination of this Agreement for any reason, You will immediately return all of Our CPE.

17.8 (a) We will use Our best endeavours to deliver the CPE to You on the Delivery Date at the site during Your normal business hours.

(b) If You wish the CPE to be delivered to a location other than the site, You may make a request in writing to Us not later than 14 days (or such other period as is agreed between Us & You) prior to the Delivery Date. We may at Our sole discretion determine whether to agree to such a request & what conditions, if any, shall apply in the event of agreeing to such a request.

(c) If You request delivery of the CPE to be made in advance of the Delivery Date or postponed beyond the Delivery Date, We shall use reasonable endeavours to re-schedule delivery accordingly but shall otherwise be under no obligation to comply with Your request.

(d) In the event that We accede to a request made by You pursuant to clauses (b) & (c) of Clause 17.8, We may make such additional charge as We reasonably consider to be appropriate to reflect the direct impact upon Our resources in complying with such request.

(e) If We request permission to deliver the CPE prior to the Delivery Date, You shall use Your best endeavours to prepare the site & to do all other things necessary to enable Us to comply with the request & to accept early delivery.

17.9 (a) We or an approved contractor shall install the CPE at the site on the Installation Date. In the absence of agreement to the contrary, the installation shall be effected during Our normal business hours.

(b) You shall at Your own expense prepare the site, & access to the site, prior to delivery. In doing so, You shall comply with any directions or specifications issued by Us.

(c) Without limiting the foregoing, You shall provide at the site:-

- (i) adequate electric current for the continuous use of the CPE;
- (ii) adequate electrical & mechanical fittings;
- (iii) appropriate environmental conditions; &
- (iv) a secure location for the CPE, including if applicable a suitable point



for mounting an external satellite dish without obstructions;

(v) all relevant facilities for the location of the CPE

(vi) access to all relevant personnel including Your technical personnel;

(vii) where relevant, permission from the owner &/or lessor for Us & Our representatives & agents to enter the Premises & install the CPE, including making any minor physical modifications contemplated for the purposes of providing the telecommunication or data service(s). You warrant to Us that at the date of installation You will have notified the relevant party & obtained all relevant consents & You indemnify Us against any claim made against Us, or loss incurred (including legal costs on a full indemnity basis), by another person in connection with such entry & installation.

(d) We shall, upon request from You, supply such information & assistance as We consider reasonable & necessary to enable You to prepare the site.

(e) Notwithstanding the foregoing, We shall, if requested by You & at Your expense charge as an additional charge, inspect the site prior to delivery for the purpose of providing an opinion as to whether the site is suitable for delivery & installation of the CPE.

(f) Where We reasonably determine the requirements for installation exceeds reasonable expectations for any Installation Fee quoted or agreed with You, We will not be bound to provide the installation at the Installation Fee previously quoted or agreed & We agree to discuss & use Our respective reasonable endeavours to agree a new Installation Fee; & subject to:

Our completing the assessment in clause (e) to Our satisfaction; You & Us agreeing to any Installation Fee or change to the Installation Fee previously agreed; & upon payment of the Installation Fee,

install & configure the CPE at Your Premises including making any necessary minor physical modifications deemed necessary by Us to Your Premises in order to install the CPE. You are responsible for all other things not included within the installation.

(g) You agree to obtain & maintain, at Your expense, any & all permits, licences, approvals, authorisations, including local council planning approval required for the installation & operation of the CPE;

(h) You warrant that Your location in respect of an installation of a satellite dish has a clear & uninterrupted view of the satellite used in the provision of the data service(s) from Your Premises & the actual location of the CPE;

(i) that Your Premises are suitable & have the requisite approvals to support the CPE, including specifically a satellite dish & outdoor unit using standard installation practices.

(j) In the event that You are relocating Your Premises & as a result, Your CPE, We may, upon Your request, allow You to move the CPE from the Premises to new premises during the Term so that You can continue using the data service(s) at the New Premises, subject to:

(i) Our being able to provide the service(s) at the New Premises;

(ii) You agreeing that these terms & conditions apply to the provision of the service(s) at the New Premises; &

(iii) You pay all costs incurred by Us as a result of You having the CPE moved.

17.10 (a) You acknowledge that the CPE does not include the goods & services specified as excluded or "not included" in the Quotation;

(b) You may upon request to Us, request that We supply additional services including without limitation, inspection, repairs, adjustment & replacement of unserviceable or defective parts not subject to the limited warranty given in clause 17.11 in respect of the CPE;

(c) If agreed to by Us, additional services will be provided on a time & materials basis charged at Our standard rates in effect from time to time & on terms agreed to between Us & You; &

(d) Unless agreed in writing, any subsequent agreement to provide additional services between You & Us will not modify or vary the terms & conditions of this Agreement.

17.11 (a) We warrant that the CPE is newly manufactured.

(b) We warrant that at the date of this Agreement We believe the CPE to be free from defects in materials & workmanship.

(c) You may during the Warranty Period notify Us in writing of any defect or suspected defect in the CPE. We shall, to the extent necessary, inspect, replace or repair the CPE at no additional charge & as soon as practicable after receiving written notice from You.

(d) We shall not be liable under clause (c) of Clause 17.11 if the defect is the result of:-

(i) Improper use or mismanagement of the CPE by You;

(ii) Operation of the CPE other than in accordance with the instructions given by Us;

(iii) Use of the CPE in a manner not reasonably contemplated by Us;

(iv) Modification of the CPE not authorised by Us;

(v) Use of the CPE in a manner contrary to law;

(vi) Subjecting the CPE to unusual or not recommended physical, environmental or electrical stress;

(vii) Reinstallation or moving of the CPE by a person other than Us;

(viii) Use of the CPE by a person other than You;

(ix) Your failure to comply with any terms of this Agreement; or

(x) Your failure or refusal to install engineering changes or enhancements recommended by Us.

(e) If You provide a notice of a defect or suspected defect pursuant to clause (c) of Clause 17.11 & any subsequent inspection of the CPE by Us reveals no defect, the direct & indirect costs & expenses associated with such inspection shall be borne by You as an Additional Charge.

(f) You agree that the warranty in this clause 17.11 may, at Our option, be varied or replaced by specific warranty conditions issued in respect of the CPE.

17.12 A CPE provided to You as part of Our Broadband or Wireless Broadband Service may be configured for use with only Our Broadband or Wireless network. You may not be able to use the CPE with another network or provider.

17.13 Where as part Our Service We supply You with a Broadband router, modem, USB Modem, mobile handset or mobile accessory & You cancel the data or mobile Service within the first 5 working days of Your Application &

a) the Service has not as yet been activated & the Broadband router, modem, USB Modem, mobile handset or mobile accessory is in its original packaging a full refund will apply;

b) the Service has been activated & the Broadband router, modem, USB Modem, mobile handset or mobile accessory is in its original packaging a disconnection fee of \$100 dollars will be charged to You,



c) the Service is not activated & the Broadband router, modem, USB Modem, or mobile handset or packaging is not in original condition, a reconditioning fee will be charged to You up to the value of the Broadband router, modem, mobile handset or mobile accessory when it is returned by You.

d) the Service has been activated & the Broadband router, USB Modem, modem, mobile handset or mobile accessory is not in original condition a disconnection fee of \$100 dollars in addition to a reconditioning fee, up to the value of the Broadband router, modem, USB Modem, mobile handset or mobile accessory will be charged to You.

17.14 We are not liable for faulty CPE provided to You by a 3rd-party manufacturer. Where You are experiencing a CPE fault, You should contact the manufacturer direct, whose contact details may be on Our website www.peopletelecom.com.au.

18.0 notices

18.1 Any notice, demand, consent or other communication required to be given by either party must be delivered personally, or sent by email, prepaid mail, or by facsimile to the address of the other as last notified.

19.0 governing law

19.1 This Agreement shall be governed & construed in accordance with the law of New South Wales & the parties hereby submitted to the jurisdiction of the Courts of that State.

20.0 disputed amounts

20.1 In the event that a bill is disputed by You, You agree to pay to Us all the total amount as indicated on the disputed bill without deduction or set-off & We agree to refund any monies found to be charged incorrectly after reasonable & proper investigation.

20.1 If a billing dispute is not raised within 12 months of the bill issue date, charges will be deemed correct & payable by You & any backdate/credit of these charges if required will not exceed a 12-month period prior to the date the dispute was raised.

21.0 communications & content

21.1 You are responsible for the content of the messages You communicate when using Our Services as well as the consequences of those messages. You

agree that You will not use Our Services to engage in activities that are illegal, obscene, threatening, defamatory, invade privacy, infringe intellectual property rights, interferes with the rights of other users, or otherwise injure third parties or are objectionable. You may not use a false email address, impersonate any person or entity, or otherwise mislead others or Us as to Your identity. You must comply with any rules imposed by any third party whose content or service is accessed using Our Service. We reserve the right to suspend or terminate the Service in the event of a breach of this clause & in such cases You will be responsible for any costs associated with suspension or termination of the Service.

21.2 We believe that any communication in the form of telephone calls, written correspondence letter, brochure or emails from Us or its related parties are a valuable part of Our service as they enable You to keep up-to-date with matters regarding other products provided by US including but not limited to Internet security, viruses, useful tools, promotions, sites of interest & other related matters. The communication does not constitute Spam as We have a business relationship with You. This relationship does not end with the cessation of the provision of Our Services to You as alternate or related services may become available at a future time and these services may be communicated to You. However, if You do not want to receive such communication from Us please contact Us to unsubscribe, (this does not affect other electronic communications specifically regarding the provision of the service of Your account). Any communication from Us to You is not negated by You registering on the ACMA Do Not Call Register

21.3 Spam. In this section, "Spam" includes one or more unsolicited commercial electronic messages with an Australian link for purposes of the Spam Act 2003, and derivations of the word "Spam" have corresponding meanings.

21.4 Acceptable use in relation to Spam. You may not use the service to:

(a) send, allow to be sent, or assist in the sending of Spam

(b) use or distribute and software designed to harvest email addresses; or

(c) otherwise breach the Spam Act 2003 or the spam regulations 2004 of the commonwealth

21.5 Our right to suspend the Service - We may suspend Our provision of the Service to You in the following events:

(a) if the Service provided to You is being used to host any device or service that allows email to be sent between third parties not under Your authority and control: or

(b) if You are in breach of clause 21.4 above;

Provided however that We will first make responsible attempts to contact You and give You the opportunity to address the problem within a reasonable time period. What is reasonable in this context will depend on the severity of the problems being caused by the open service or breach referred to above.

21.6 Customer to minimise risk of breach - You agree to use Your reasonable best endeavours to secure any device or network within Your control against being used in breach of clause 21.4 above by third parties, including where appropriate.

(a) the installation and maintenance of antivirus software.

(b) the installation and maintenance of firewall software; and

(c) the application of operating system and application software patches and updates.

Our right to suspend Your account applies regardless of whether the open service is provided or the breach is committed intentionally, through misconfiguration, or by other means not authorised by You including but not limited to through a Trojan horse or virus.

21.7 Our right to scan for misconfigurations - We may scan any IP address ranges allocated to You for Your use with the Service in order to detect the presence of open or misconfigured mail and proxy servers.

21.8 Our right to terminate the Service - if the Service is not suspended and the grounds upon which it may have been suspended are not corrected by You within seven days, We may terminate the Service. In the event the Service is terminated under this clause You may apply for a pro rata refund of any pre-paid charges for the Service, but We will have the right to levy a reasonable fee for any costs incurred as a result of the conduct that resulted in the suspension.



22.0 use of mobile phone or SIM

22.1 Where We are providing mobile or Wireless Broadband Services, if You use a roaming service overseas in connection with Your mobile phone, You agree to pay all charges in connection with the provision & use of the roaming services, including local taxes & surcharges.

22.2 Where We are providing mobile or Wireless Broadband Services, You understand that while roaming an overseas network will provide some of the Services. There may be limitations to the overseas networks, which may have not been advised to You or Us.

22.3 Where We deem that You are using in excess of 2,000 minutes of a flat charge call offer, such as people networking, or free time, per month, per mobile phone (SIM card), We will charge any usage in excess of 2,000 minutes per month at the standard mobile call rate under Your plan and may at Our option immediately disconnect that mobile Service.

22.4 We may at Our option immediately disconnect a mobile Service that

a) transits, refills or aggregates domestic or international traffic on the mobile network, or

b) who without Our express written permission uses Our mobile Service (including any SIM card) in connection with a device that switches or reroutes calls to or from the mobile network.

22.5 Where We are providing 3G mobile value added Services, You understand that you may be required to download software onto your mobile phone to access these Services and that You agree to pay all charges associated with 3G mobile value added Services including, but not limited to; per session, daily or monthly access fees, content charges and browsing charges.

22.6 Where You chose to access OptusZoo via the mobile or web portal to purchase content, You agree to pay all charges associated with Your chosen content.

23.0 supply of local call Services or rebill Services only

23.1 For any one calendar month, where We are supplying You with local call (not long distance, data, or mobile Services) or Services rebilled from another Carrier or network, We may charge You \$25 per calendar month for

the month that only local call or rebill Services were supplied.

24.0 installation & programming of equipment

24.1 Where We are providing fixed wire Services, You will assist Us in ensuring that any equipment necessary for You to receive the Services & access Our network is installed & programmed so that calls to destinations nominated by Us from time to time are, as far as possible, carried by Our preferred switched services network.

24.2 Where We are providing data &/or Broadband Services, You will assist Us in ensuring that any equipment necessary for You to receive the Services & access Our network is installed & maintained.

25.0 conditions of fax broadcast Service

25.1 You must adhere to people telecom's Privacy Policy available on Our website at www.peopletelecom.com.au.

Additionally, by proceeding to use Our Service You acknowledge that You have read & fully understand Your requirements under the *Privacy Act*. It is Your responsibility to comply with the law.

25.2 You are responsible for the list categories You choose & the information You send. We do not take responsibility for the content of documents delivered by the network. You warrant that the content of all documents You submit will be accurate, relevant, & free of any viruses. You agree not to make any defamatory, obscene, or illegal statements, which infringe any law, regulations, or any industry codes of practice.

25.3 You authorise Us to distribute Your media releases to the chosen list(s) of recipients & further permit those recipients to use the information conveyed in them.

25.4 We will use all reasonable efforts to ensure that Your documents are distributed on time according to Your on-line instructions. We, however, do not take responsibility or are liable in any way for any errors in transmission, or the selection of distribution lists, or for the information transmitted, or the failure to transmit, or delay in transmission, or failure to provide a broadcast report, however caused. We will not be liable for any consequential, direct, or special loss.

25.5 We do not warrant that Your recipients have expressed an interest in receiving Your information either from Your own lists or any distribution lists provided by Our third-party providers or Us. Please ensure that Your information is relevant, & of interest, to Your targeted audience.

25.6 We are not responsible for any errors in lists created by You or for the accuracy of lists by Our third-party providers or Us.

26.0 conditions of voice & video conferencing Service

26.1 You are responsible for maintaining the confidentiality of Your owner number & any personal identification numbers & passwords ('Account') & for restricting access to Your Account.

26.2 You agree to accept responsibility & liability for all activities that occur under Your Account whether lawful or unlawful. You are also solely responsible for all uses of Your Account, whether or not actually or expressly authorised by You.

26.3 We do not sell products or services to children. If You are under 18, You may use Our Services only with involvement of a parent or guardian.

26.4 We reserve the right to refuse service, terminate accounts, remove or edit content, or cancel orders at Our sole discretion.

27.0 conditions of data &/or Broadband Service

27.1 We do not supply a standard telephone service with the Broadband access component & as such the Service is not subject to the "Customer Service Guarantee" standard administered by the Australian Communications Authority & it may be necessary to terminate the Service if You request another carrier to provide a standard telephone service after the date of this Agreement;

27.2 We may, at Our discretion, provide the Service by using either:

a. an existing or new Unconditioned Local Loop Service ('ULLS'); or
b. an existing or new access line that supplies a standard telephone service; provided by Telstra Corporation Limited ('Telstra') or a reseller of Telstra, depending on the technical & operational requirements of the particular Service.

27.3 in the case of clause 27.2(b) above, You agree:



a. that You are the customer of Telstra or a Telstra reseller in respect of the standard telephone service;

b. that We can only provide the service whilst You remain a customer of Telstra or a reseller for the standard telephone service;

c. that We will terminate the service if You cease to be a customer of Telstra or a reseller;

d. that the installation of the service may cause temporary disruption to the standard telephone service; &

e. that certain incompatible products will not be supplied to You by Telstra or a reseller of Telstra.

27.4 Where a telephone exchange area is shown as being Broadband (i.e. DSL) enabled, there is no guarantee that individual telephone services provided from that exchange will qualify for DSL service provision.

27.5 The performance of the end-to-end service offered over DSL is determined by the quality of the copper line & the distance from the DSL exchange. As such the performance of the end-to-end service can only be estimated until We have qualified the line performance. We will accept a customer order upon appropriate qualification where the line performance meets Our service objectives & the availability of the said service.

27.6 Delivery times of data tails specified in the original proposal to You assume availability of Service and/or no Carrier delays. If following submission of Your order by Us to the Carrier Service qualification is unsuccessful then a new Service proposal may be provided that may differ from the original proposal and may incur additional charges.

27.7 People Telecom Flat-Rate plans are designed for users who wish to cap data expenditure, and are not intended to provide users with virtually unlimited downloads. People Telecom reserves the right to further shape or constrain your service if you exceed more than 150% of your data quota.

27.8 People Telecom reserves the right to issue a notice to customers who cause significant detrimental impact, as determined by People Telecom, for technical, operational or commercial reasons. If you receive this notice you may cancel the service without incurring any contract break fees by giving notice to us within 30 working days of the notice issue.

27.9 People Telecom reserves the right to use prioritisation and traffic shaping techniques based on application traffic in order to optimise network performance.

Application traffic will be prioritised based on whether or not the application traffic is time-sensitive. People Telecom will endeavour to provide a high quality of service for both prioritised and non-prioritised traffic at all times.

28.0 acceptable use of internet, data, Wireless &/or Fixed Broadband Services

In addition to the provisions in (21.0) above, You agree to comply with the acceptable use standards which include but are not limited to the following:

28.1 not to transmit information or material which is considered threatening, obscene, offensive, indecent, abusive or menacing;

28.2 not to knowingly accept email which is unlawful, & violates or infringes upon the rights of any person or corporation;

28.3 not to reveal confidential information about Us &/or Our suppliers which may result in unauthorised usage of the Services by a third party;

28.4 not to host or transmit information which contains viruses or other harmful components designed to interrupt, damage, destroy or limit the functionality of any other computer software, hardware or service provider equipment;

28.5 not to interfere, damage or destroy computer systems operations of the Services including disobeying any of Our requirements, procedures, policies or regulations, other users &/or third parties; &

28.6 not to store or transmit any unlawful, threatening, defamatory, offensive or pornographic material that constitutes a criminal or civic offence under State & Commonwealth laws.

People Telecom reserves the right to enforce compliance of these terms including suspending or terminating your account. Such termination may be without notice to you, and subject to any fees associated in the suspension or termination of your service.

29.0 network security

29.1 You agree to accept responsibility & liability for the security of &/or access to Your networks & related systems. You will take reasonable & appropriate

precautions to prevent any violations of Your network &/or related systems security.

29.2 We do not take responsibility or are liable in any way for any violations of Your network &/or related systems security, however caused.

29.3 While We are responsible for the provision of services, You are responsible for ensuring that adequate security in the form of virus protection and firewalls exist to protect Your electronic data and computer operating system or the electronic data and computer operating system of Your business against unauthorised or unwarranted intrusion.

30.0 Data & Satellite Transmission Requirements

30.1 You agree to

(a) comply with any practices & procedures specified by Us with respect to transmissions to, or from, any satellite used for the purposes of providing the data service;

(b) not use any data service in a manner, which would or could be expected to harm or interfere with the use of, or harm any portion of any satellite or transponder;

(c) comply with any specifications of Us for initiating & terminating any transmissions to any satellite used for the purpose of providing the data service; &

(d) encrypt, where required by Us, any transmission to any satellite used for the purposes of providing the data service.

30.2 You agree that any service levels for the data Service(s) do not apply where You are unable to access the data Service(s) due to any interference with equipment that prevents the CPE from transmitting to, or receiving signals from, any satellite used by Us; & which are a result of any changes to the surrounding environment subsequent to the installation of the CPE, You must either:

(i) take all steps reasonably necessary & within its control to ensure that the interference is removed; or

(ii) where it is not possible to remove the interference, You must engage Us to relocate the CPE at Your cost.