



## Fibre Up Pty Ltd Standard Form of Agreement

### GENERAL TERMS - IMPORTANT CUSTOMER INFORMATION

*This document sets out your rights and obligations.*

*Please read this document carefully as it may have important consequences for you.*

This Standard Form of Agreement is between **you** and the entity **Fibre Up Pty Ltd**, that supplies the **Service** to **you**. The agreement applies to your access, connection and use of the **Services** including the supply of any related goods or installation and maintenance services.

By accessing and using the **Service** **you** represent that **you** have read, understood and accepted these terms and agreed to be bound by them. If **you** do not agree to these terms, please do not use the **Service** or register an account.

Capitalised words in this agreement have the meaning set out in clause 19 at the end of this document.

#### 1. Standard Form of Agreement

1.1 This document is the Standard Form of Agreement (**or SFOA**)

1.2. The **SFOA**:

- (a) is a **standard form of agreement** under section 479 of the **Telecommunications Act 1997** (Cth);
- (b) applies to all **Services** and provided by **Fibre Up Pty Ltd**;
- (c) may be amended from time to time in accordance with the **SFOA**;
- (d) does not apply to the extent otherwise agreed between **us** and **you**.

1.3. The **SFOA** consists of the following:

- (a) your Application;
- (b) our **Critical Information Summary**
- (c) **Service** Schedules for your **Service**;
- (d) any applicable Business Terms (applicable to business customers only);
- (e) these General Terms;
- (f) Pricing Schedules for your **Service**;
- (g) any **Hardware Warranty Information**;
- (h) **our** Acceptable Use Policy; and
- (i) **our Privacy Policy**.

Where there is any inconsistency between any of the terms of the **SFOA**, the order of precedence will be as listed above, except that clause 16 takes precedence over all other terms in the **SFOA**.

### Revision of the **SOFA**

1.4. **We** reserve the right to revise, amend, or modify the **SFOA** (including **our** Acceptable Use Policy, **our Service** Schedules and **our** other policies) at any time.

1.5. Subject to clause 1.7, **we** will notify **you** at least 30 days before **we** make a change to **our SFOA** which is likely to have a detrimental impact on **you**. Notice of any revision, amendment, or modification will be provided by:

- (a) email (provided **you** have agreed for **us** to tell **you** about changes to the **SFOA** by email);
- (b) posting the notice on **our Website**.

1.6. Subject to clause 1.7, if **we** make a change to **our SFOA** which is likely to have a detrimental impact on **you**, and that impact is not minor, **you** may cancel the affected **Services** by giving notice to **us** within 42 days after the date **we** give **you** notice under clause 1.5. **You** will not incur any Early Termination Fee or other charges as a result of cancellation in accordance with this clause, except for:

- (a) **Usage** based charges incurred up to the date of cancellation; and
- (b) installation fees and costs of **equipment we** have provided to **you** that **you** have not paid for.

1.7. **We** do not need to give 30 days' notice of changes to **our SFOA** or give **you** a right to cancel the **Service** under clause 1.6 in relation to:

- (a) urgent changes **we** are required to make by law, for security reasons, or for technical reasons necessary to protect the integrity of **our Network**;
- (b) the introduction of a new charge or increase in an existing charge arising,
  - (i) due to an additional tax or levy imposed by law; or
  - (ii) for ancillary services such as credit card transaction or direct debit fees;

(c) increases in charges due to increases imposed on **us** by other Suppliers for the following:

- (i) international carriage services (including voice and data services);
- (ii) content and premium services from a third party; and
- (iii) for calls made to satellite services; and

(ci) a change to or removal of any special feature of your **Service** that is not expressly referred to in the relevant **Service Schedule**.

1.8. **We** will provide reasonable notice of changes made under clause 1.7 where practicable by the notice methods outlined in clause 1.5.

1.9. Where **we** reasonably consider a change to **our SFOA** is likely to benefit **you** or have no impact on **you** **we** may make that change immediately without notice to **you**. **We** will notify **you** of such changes within a reasonable time after making them by the notice methods outlined in clause 1.5.

1.10.1 If a change made under clause 1.9 has more than a minor detrimental impact on **you**, **you** may cancel your **Service** in accordance with clause 1.6.

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#### **Authorised Representative**

**You** may nominate an **Authorised Representative** to exercise any of your rights under the **SFOA**. Any act by your **Authorised Representative** in relation to your **Service** is deemed to be done by **you**.

1.11.

#### **Obsolete Services**

**We** regularly change the **Service** plans and pricing that **we** offer to **our** customers. When any relevant **Contract Term** expires, **we** may (although **we** are not obliged to do so) continue to provide a **Service** to **you** in accordance with the same **Service Schedule** and

1.12. Pricing Schedules that applied during the **Contract Term**, even where **we** no longer offer that plan and pricing to new customers (**Obsolete Services**). **We** will provide details of the terms of any Obsolete **Service** **we** supply to **you** on request.

## **2. Your Application**

2.1. **You** may apply for a **Service (Application)** by:

- (a) telephone or email, by asking **our** customer **service** representative to complete the application form for **you** and read the **Key Terms** to **you**;
- (b) Complete an online application on **our Website**

- (c) completing a written application and submitting it to **us** in any manner acceptable to **us**; or
  - (d) any other method approved by **us**.
- 2.2. The **Service** requested by **you** in your Application is described in more detail in the **Service Schedule** for that **Service**.
- 2.3. By making an Application **you** agree to the terms and conditions contained in the **SFOA**, subject to clauses 2.5(b) and 2.5(d) below.
- 2.4. **We** may accept your Application in **our** absolute discretion. **Our** decision on whether to accept your Application and supply **Services** to **you** is based on any factors **we** consider relevant, including:
  - (a) the availability of that **Service** to **you**;
  - (b) your eligibility for the **Service**;
  - (c) your credit history;
  - (d) the information **you** provide to **us**; and
  - (e) your prior conduct or history in respect of any previous **Services** provided by **us** to **you**.
- 2.5. If your Application is accepted, this **SFOA** between **you** and **us** commences on the earlier of:
  - (a) if **you** complete an online application on **our Website**, the date **you** submit the online application;
  - (b) if **you** apply by telephone, the **Key Terms** commence on the date **you** accept the **Key Terms** and the remainder of the **SFOA** terms commence on the **Service Commencement Date**;
  - (c) if **you** complete a written application form, the date **you** complete the written application form; or
  - (d) the **Service Commencement Date**.
- 2.6. **You** must provide **us** with accurate and honest information in your Application.

### 3. Access to Premises

- 3.1. In order to provide the **Service** to **you**, **we** need access to your **Premises**. **You** agree to provide **us** with safe and prompt access to the **Premises** to:
  - (a) deliver and install any **equipment** for a **Service** **you** have applied for;
  - (b) inspect, test, maintain, modify, repair or replace any **equipment**;
  - (c) recover **our equipment** after the **Service** is cancelled;
  - (d) and to enforce **our** rights under clause 7.2.
- 3.2. If **you** do not own the **Premises**, **you** must obtain the owner's consent for **us** to access the **Premises** and install and maintain any **equipment**. **You** must inform **us** if **you** are unable

to obtain the owner's consent. **You** indemnify **us** against any claim the owner makes against **us** or **our** installers relating to entry to the **premises** or doing things listed in clause 3.1 that arises from your failure to obtain the owner's consent or your failure to inform **us** that **you** were unable to obtain consent.

#### 4. Your use of the Service and Obligations

- 4.1. **You** are responsible for and must pay for any use of the **Service**, including:
- (a) any use by any person **you** have expressly or impliedly allowed to use the **Service**; and
  - (b) any unauthorised use (including use of a **Service** after **you** vacate the **Premises** where **you** have failed to transfer or cancel the **Service**), unless that unauthorised use arises as a result of **our** negligent or wrongful act or omission.
- 4.2. In using the **Service**, **you** must comply with all laws, all directions by Regulatory Authorities and all reasonable directions by **us**.
- 4.3. **You** and any person who accesses your **Service** must not breach **our** Acceptable Use Policy.
- 4.4. **You** must provide **us** with all information **we** reasonably require under the **SFOA** (including for the purposes of investigating a possible breach of the **SFOA** or misuse of your **Service**).
- 4.5. **You** must not interfere with **our** normal operation of the **Service**.
- 4.6. **You** acknowledge that, where permitted by law, **we** may intercept communications over the **Service**.
- 4.7. **You** acknowledge that **we** (or **our** Suppliers) may (although **we** are not obliged to) monitor your use of the **Service** and communications sent over it for the purposes of ensuring your compliance with this **SFOA**, compliance by **us** or **our** Suppliers with the law, or compliance with any direction or request by any **Regulatory Authority** or law enforcement authority.
- 4.8. **You** authorise **us** to (although **we** are not obliged to) scan and conduct testing of the security of the **Network** and your **Service** (including your **equipment**) for the purpose of improving the security of the use of the **Service**.
- 4.9. **You** acknowledge that any calls **we** make to **you** or **you** make to **us** may be monitored or recorded and **you** consent to such monitoring and recording. If **you** do not consent to having your calls monitored or recorded, **you** can email **us** or contact **us** via **our Website**.
- 4.10. **You** must ensure that any telephone number **you** provide in your Application is correct. An incorrect number will result in charges for calls made on that nominated number.
- Where **you** have provided an incorrect number, **we** do not accept any liability for any costs or other damage incurred as a result.

- 4.11. **You** must advise **us** within a reasonable time of any changes that are relevant to your account or the **Service** (for example changes to your address, or changes to your credit or direct debit details).

## 5. Access Information

- 5.1. **We** will provide **you** with the access information required to use the **Services** that **we** deem reasonably necessary (if any). **You** must maintain the secrecy and confidentiality of all such access information (including your username and password).
- 5.2. **You** must notify **us** immediately if your username or password are lost, or **you** believe someone else is using them.
- 5.3. **You** remain liable for all charges resulting from use of the **Services** accessed through your access information, whether authorised by **you** or not.

## 6. Providing the Services and Our Obligations

- 6.1. **We** will use **our Network** or **Supplier** to supply your **Service** in accordance with the **Service Schedule**. The technical means and infrastructure used to deliver your **Service** is subject to **our** discretion. **We** may change the technical means and infrastructure used to deliver your **Service** at any time, so long as it does not adversely affect your use of the **Service**.
- 6.2. There may be a delay between **us** accepting your Application and providing the **Service** to **you**. **We** will not be liable for any delays associated with connecting your **Service**, or any inability by **us** to provide the **Service** (except to the extent the **Customer Service Guarantee** applies). **You** will not be charged for a **Service** until it has been provided by **us** or **our** wholesale provider.
- 6.3. Subject to the Consumer Guarantees and clause 16, **we** will make all reasonable efforts to ensure continuity of the **services**, but **we** make no guarantee that the **services** will be either uninterrupted or error-free.
- 6.4. **We** will endeavour to take reasonable care with information that **you** deposit with **us**, but **we** cannot and do not guarantee that all such information will reach its intended destination (including electronic mail) inside or outside **our Network**.
- 6.5. **We** will comply with the **Telecommunications Act** and other laws and directives under State or Commonwealth laws including those issued by state or federal law enforcement agencies that have jurisdiction over the use of Internet services.

- 6.6. **We** will cooperate with Regulatory Authorities, law enforcement agencies and other **service** providers to control and prevent unacceptable behaviour and may implement automated mechanisms to prevent behaviour which is or may be in breach of **our** Acceptable Use Policy. This may include removing any content or cancelling or suspending your account.
- 6.7. **We** reserve the right to prioritise the use of applications in order to optimise the performance of **our Network**. Applications will be prioritised based on whether the performance is time-sensitive or requires a minimum throughput (for example video streaming will be prioritised over downloading files to maintain the quality of the video stream).
- 6.8. Some of **our** plans specify separate **Peak** and **Off Peak** allowances for your data. **Peak** and **Off Peak** periods assist in managing the volume of traffic in **our Network** at any one time and optimising the performance of **our Network**. Where your plan specifies **Peak** and **Off Peak** allowances, your total data allowance is split between a maximum **you** can **download** in **Peak** periods and a maximum you can **download** in **Off Peak** periods.

## 7. Equipment

### 7.1. Use of Equipment

**You** must ensure that all **equipment** you use in connection with the **Service** and the way in which you use that **equipment** complies with:

- (a) all laws;
- (b) all directions from Regulatory Authorities;
- (c) all notices issued by authorisation of or under law; and
- (d) all reasonable directions by **us**.

7.2. If **you** breach clause 8.1, **we** may:

- (a) disconnect the **equipment** from the **Service**; or
- (b) suspend or cancel the **Service** under clause 12.2(b) or 12.2(c).

7.3. **We** will endeavour to give you reasonable notice before **we** undertake any of the actions under clause 7.2. However, **we** may disconnect **equipment**, or suspend or cancel the **Service** immediately in the case of an emergency.

### 7.4. Fibre Up Pty Ltd Equipment

**We** may provide **you** with loan or hire **equipment** to enable **you** to use the **Service** (**Fibre Up Pty Ltd Equipment**). Any **Fibre Up Pty Ltd Equipment** provided to **you** remains **our** property or the property of **our** Suppliers.

7.5. Where **we** provide **Fibre Up Pty Ltd Equipment** to **you** in connection with the **Service** **you**:

- (a) are responsible for the **Fibre Up Equipment** from when **you** receive it;
- (b) must pay **us** for any loss or damage to **Fibre Up Equipment**, except to the extent it is caused by fair wear and tear;
- (c) must not mortgage, or grant any charge, lien or encumbrance over any **Fibre Up Equipment**;
- (d) must comply with **our** reasonable directions relating to **Fibre Up Equipment**;
- (e) must use the **Fibre Up Equipment** in accordance with the manufacturer's specifications;
- (f) must not part with possession of the **Fibre Up Equipment**, other than to return it to **us**;
- (g) must allow **us** to inspect, test, **service**, modify, repair, remove or replace **Fibre Up Equipment**, or to recover it after the **Service** is canceled or terminated;
- (h) must ensure that **Fibre Up Equipment** is not altered, modified, repaired, serviced, moved or disconnected except as approved by **us**; and
- (i) must provide adequate and suitable space, power supply and environment for all **Fibre Up Equipment** located at the **Premises**.

## Your Equipment

- 7.6. **Fibre Up** prefer to provide routers that have been tested and are supported by **Fibre Up** staff, **Fibre Up** routers are provided at an additional cost. If **you** wish to supply your own router **Fibre Up** are unable to support the device and **you** will need to engage your router manufacturer for support if issues are encountered
- 7.7. **Equipment** may be purchased by **you** from **us** in connection with the **Service**. Subject to your rights under the **Australian Consumer Law**, **you** will own the **equipment** once **you** have paid for it in full and **you** will be responsible for the **equipment** from when **you** receive it.
- 7.8. **You** will be responsible for any outstanding payments for **equipment you** have purchased from **us**, even when that **equipment** is lost, stolen or damaged (unless caused by **us**).
- 7.9. **Router Replacement Policy.** Routers are provided with a 12-month warranty period from the date of installation. If a hardware malfunction is diagnosed by our technicians after the warranty period has expired, a replacement fee starting from \$130 will apply for a new device. If the product is found to be defective after the standard warranty period, **you** may elect to have Cambium repair your device for a fee.

**You** are responsible for:

- 7.10. (a) the proper functioning and security of your **equipment**;
- (b) supplying, maintaining and repairing all **equipment** used in connection with the **Service**, other than **Fibre Up Equipment**, including telephone access lines (if applicable), cables, telephone (If applicable) and computer **equipment** (including modem) and other access devices necessary for **us** to provide the **Service** to you.

**You** agree to comply with all reasonable directions by **us** in relation to your **equipment**, including:

- (a) allowing **us** to inspect your **equipment**; and
- (b) allowing **us** to make any necessary modifications to your **equipment** to avoid any danger or interference it may cause to **Fibre Up Equipment**, **our** other **equipment**, to



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## Delivery of Equipment

7.11. **You** must make all arrangements necessary to take delivery of the **equipment** when it has been sent by **us**. If **you** are unable to take delivery of the **equipment** as arranged, then **we** may charge a reasonable fee for re-delivery.

7.12. Delivery of **equipment** to a third party nominated by **you** is deemed to be delivery to **you**.

7.13. If **equipment you** have ordered and paid for arrives damaged or of unacceptable quality, then **you** may have rights under the **Australian Consumer Law** or other consumer laws to have the product repaired or replaced, or to a refund of the price paid.

**We** will not be liable for any loss or damage whatsoever due to failure by **us** to deliver any **equipment** promptly, or at all, where that failure is due to circumstances beyond **our** control.

## 8. Charges and Billing

### Charges

8.1. All charges for the **Service** are set out in **our Pricing Schedule**, and any additional charges are set out in your Application and/or on **our website**. All prices shown on the **Website** and in the **Pricing Schedule** are presented in Australian Dollars (AUD) and are exclusive of Goods and Services Tax (GST).

8.2. **You** must pay all charges for the **Service** in accordance with the **Service Schedule** and **Pricing Schedule**.

8.3. **We** may charge **you** an additional amount to **service**, modify, repair, or replace the **Service** or any **equipment** used in connection with the **Service** where the need to do so arises from:

- (a) your breach of the **SFOA**;
- (b) a negligent or fraudulent act or omission by **you** (or any person with your express or implied authority, or any of your employees, agents or contractors);
- (c) a failure of any of your **equipment** arising out of an act or omission by **you** (or any person with your express or implied authority, or any of your employees, agents or contractors); or
- (d) a failure in power supply arising out of an act or omission by **you** (or any person with your express or implied authority, or any of your employees, agents or contractors).

**We** will provide details of additional charges prior to commencing the **service**, modification, repair or replacement.

8.4. Subject to clause 1.6, **we** reserve the right to correct any published price errors on **our Website**.

8.5. All portions of **Usage** are charged for and unused allocations are not transferable or refundable.

### **Billing**

8.6. If **you** acquire ongoing **Services** from **us**, a regular invoice/statement notification will be delivered to **you** by email. **We** may charge **you** a processing fee if **you** request **us** to deliver your invoices by post or facsimile.

8.7. The first month's **service** charges, any applicable set-up fees, and any **equipment** charges must be paid in full before the **Service Commencement Date**, and are non-refundable unless **we** are unable to provide the **Service**.

8.8. **We** may bill **you** for:

- (a) recurring or fixed charges, in advance;
- (b) variable charges in arrears (for example excess data; if applicable);
- (c) installation or set-up fees, prior to installing your **service**;
- (d) any **equipment you** purchase or rent from **us**;
- (e) any other charges in accordance with the **SFOA**, including the relevant **Service Schedule** and **Pricing Schedule**.

8.9. **You** must pay the charges in the bill without any set-off, counter claim or deduction.

8.10. **We** reserve the right to re-issue an invoice where any error is subsequently discovered.

8.11. **We** may include charges from previous billing periods on subsequent bills where those charges were not previously invoiced. **We** will not bill for any charges older than 160 days from the date the charge was incurred.

8.12. Your invoice will be calculated by reference to data recorded or logged by **us** or **our Suppliers**. Records held by **us** and **our Suppliers** will be conclusive evidence of the **Usage** of the **Service** and the charges payable by **you**.

8.13. If **you** supplied credit card details, **you** authorise **us** to debit the credit card for all valid charges when they become due, including excess data or time.

8.14. **You** are responsible for any transaction fees imposed by third parties (for example your bank) in relation to your payment.

8.15. Where **we** become liable to pay any penalties or interest due to late payment of GST due to your failure to comply with the **SFOA** or your obligations under any applicable law, then **we** may charge **you** an additional amount equal to any penalties or interest payable by **us**.

- 8.16. **We** may charge **you** for any other applicable value added taxes relating to the supply of the **Service**, and any other applicable taxes, levies, or fees (including where these are on-charged to **us** by Suppliers) charged to **us** on a per **Service** basis.

### **Overdue accounts**

- 8.17. Where an account becomes in arrears **Fibre Up Pty Ltd** will initiate actions to secure payment of delinquent accounts. Accounts that are 14 days overdue will be charged a late fee. Any accounts that remain overdue will incur a monthly, or part thereof, late payment fee.  
If **you** do not pay the arrears and late fee within 7 days of **us** giving **you** notice requiring payment, **we** may suspend or restrict your **Service** without further notice.
- 8.18. Interest is payable on any amount due and payable which is outstanding under this agreement at an annual rate equal to 3% above the prime rate of interest on overdrafts charged by the National Australia Bank.
- 8.19. Debt recovery services will be used to recover any amount outstanding beyond this initial action. This will incur an administration fee of \$130. **You** will also be liable for all reasonable expenses and costs incurred in recovering payment from **you** (including financial institution charges, collection agent fees, solicitors costs, and court costs).
- 8.20. If your nominated method is not automated by **us** (credit or debit card / BPAY) **you** must notify **us** by email or telephone when **you** have made payments. Please include the transaction date and receipt number so **we** can mark your account as paid as soon as **our** bank records are updated. **You** must include the invoice number for the bill **you** are paying as the reference in any direct deposit payments. Failure to do so may result in an overdue account.

## **9. Fault Reporting and Rectification**

- 9.1. **We** will repair faults within **our Network**.
- 9.2. Except where provided in the **Service Schedule** or Business Terms, **we** are not responsible for repairing any fault in the **Service** where the fault arises from or was caused by:
- (a) a Supplier's **Network**;
  - (b) **equipment** that **we** are not responsible for, such as equipment that is owned by **you** or is not provided by **us** for **you** to use in connection with the **Service**; or
  - (c) facilities outside **our Network**.
- 9.3. Where a fault arises from or was caused by a Supplier's **Network** and **we** are aware of the fault **we** will notify the **Supplier** of the fault and request it be repaired promptly, but **we** will not bear any further liability or responsibility (except where provided in the **Service Schedule** or Business Terms).

- 9.4. **You** may report the details of any suspected fault to **us**, by telephone (1300 001 294) or email (support@fibreup.com.au). **You** can report a suspected fault to **us** 24 hours per day.
- 9.5. When reporting a fault, **you** must provide **us** with contact details, including your name, your contact points, the site contact (if applicable), contacts at both ends of the **Service** (if applicable) and details of the fault systems.
- 9.6. Before reporting a fault to **us**, **you** must take reasonable steps to ensure that the fault is not a fault in any of your **equipment** or any **equipment** not provided by **us**. **We** are not responsible for rectifying any fault in the **Service where** the fault was caused by **you** or your **equipment**.
- 9.7. If **you** report a fault in the **Service** and ask **us** to register a fault to repair it, **we** will first run through a checklist of common faults. By registering a fault for repair, **you** acknowledge that **you** have carried out the actions as outlined in this checklist.
- 9.8. If **we** determine that:
- (a) the **Service** is not faulty;
  - (b) the fault is associated with your **equipment**; or
  - (c) a fault was found because an item in the checklist (see clause 11.7) was not carried out;
- We** may charge **you** an incorrect call-out fee of \$125 and any other reasonable contractor or other fees incurred for the repair or investigation.
- 9.9. If **you** ask **us** to investigate and/or repair a fault that arises from or is caused by **equipment** that **we** are not responsible for (that is **equipment** owned by **you** or not provided by **us** for **you** to use in connection with the **Service**), **we** will provide **you** with an estimate of the cost to investigate and/or repair the fault. If **you** request **us** to investigate or repair such a fault, and **we** agree to do so, **we** will charge **you** for the cost of the investigation and/or repair in advance.
- 9.10. **We** may charge **you** reasonable costs for repairing a fault if the fault was caused by:
- (a) your intentional, reckless or negligent act or omission;
  - (b) an intentional, reckless or negligent act or omission by someone else using the **Service** with your express or implied authority; or
  - (c) an intentional, reckless or negligent act or omission by someone else using the **Service** without your authority (only where that unauthorised use of the **Service** arises from your intentional, reckless or negligent act or omission).

## 10. Variation to the Service

- 10.1. **You** may request a variation to the **Service** and **we** may make that variation in **our** absolute discretion.
- 10.2. If **we** make a variation under clause 10.1:
- (a) that upgrade, **downgrade** or change will occur on the next billing cycle;
  - (b) different charges may apply to the varied **Service** in accordance with the relevant **Service Schedule** and **Pricing Schedule**; and
  - (c) a **Downgrade Fee** may apply to the varied **Service** as specified in the relevant **Service** Description or **Pricing Schedule**.
- 10.3. Where **you** require an immediate upgrade, **we** may make the variation prior to the next billing cycle (subject to technical feasibility), but in doing so, **you** forfeit any remaining time or data for the remaining period.

## 11. Personal Information

### Collection, Disclosure and Use

- 11.1. **We** may collect **Personal Information** about **you**, for the purposes stated in clause 11.4., from:
- (a) **you** directly (for example in your Application or where **you** provide **us** with information);
  - (b) your representatives;
  - (c) **our** employees, agents, contractors or Suppliers;
  - (d) any **Fibre Up Pty Ltd** Entity;
  - (e) a credit reporting agency, credit provider, or fraud checking agency;
  - (f) other telecommunications and information **service** providers; and
  - (g) publicly available sources.
- 11.2. **We** may disclose your **Personal Information** for the purposes set out in clause 11.4 to:
- (a) **our** employees, agents or contractors;
  - (b) any **Fibre Up Pty Ltd** Entity;
  - (c) Suppliers who need access to certain **Personal Information** to provide **us** with **services** that allow **us** to provide the **Service to you**;
  - (d) credit reporting agencies, credit providers, fraud-checking agencies;
  - (e) **our** professional advisers (accountants, auditors, and lawyers);
  - (f) other telecommunication and information **service** providers;
  - (g) an **Authorised Representative**;
  - (h) your legal advisers; or
  - (i) government or Regulatory Authorities and other organisations, as required or authorised by law.

- 11.3. **We** may use the **Service** to communicate with **you** about your account. **You** acknowledge that by allowing third parties to use your **Service**, **you** consent to the disclosure of your **Personal Information** to those third parties.
- 11.4. **We** may collect, disclose and use your **Personal Information** for the purpose of:
- (a) verifying your identity;
  - (b) assessing your eligibility for a **Service**;
  - (c) assisting **you** to acquire the **service** of any **Fibre Up Pty Ltd** Entity;
  - (d) providing the **Services you** request from any **Fibre Up Pty Ltd** Entity;
  - (e) administering and managing the **services** (for example for billing, account management and debt collection);
  - (f) conducting reasonable checks for credit-worthiness or fraud;
  - (g) determining whether or not to provide to **you** trade, personal, or commercial credit and the ongoing credit management of your account;
  - (h)** researching and developing the products and **services** of any **Fibre Up Pty Ltd** Entity;
  - (i) business planning;
  - (j)** promoting and marketing the **services** and products of any **Fibre Up Pty Ltd** Entity to **you** (unless **you** request that **we** do not use your **Personal Information** in this way)
  - (k) reporting to credit reporting agencies if **you** fail to make payments due under the **SFOA** by relevant due dates; and
  - (l) providing your **Personal Information** to the manager of the Integrated Public Number Database (IPND) for the Approved Purposes.
- 11.5. If **you** do not provide some or all of the **Personal Information we** request, **we** may not be able to provide **you** with the **Services** requested by **you**, or **we** may refuse to provide, or limit the provision of, any **Service** requested by **you**.
- 11.6. By providing **Personal Information** to **us** and acquiring the **Services**, **you** acknowledge and consent to the collection, disclosure and use of your **Personal Information** in accordance with this clause 11 and **our Privacy Policy**.

## **Access to Personal Information**

- 11.7. If **you** are a natural person, **you** are entitled to access your **Personal Information** held by **us**, unless **we** are permitted or required by law to refuse access. **We** may charge a reasonable fee for providing **you** access to your **Personal Information**.

## **12. Our Rights to Cancel or Suspend the Service**

- 12.1. **We** may, without liability, cancel the **Service**:
- a) where there is no **Contract Term** specified in your Application or the **Service Schedule**, at any time on giving **you** 30 days' notice in writing to **you**, in which case **we** will provide **you** with a refund in respect of the **Services** for which **you** have paid in

advance but which have not been provided by **us**, calculated at the applicable monthly rate;

- (b) where a **Contract Term** is specified in your Application or **Service Schedule**, at any time after the end of the **Contract Term** on giving **you** 30 days' notice in writing to **you**; or
- (c) at any time before the **Service Commencement Date** if **we** determine it is not feasible (technically, commercially or operationally) to supply the **Service** to **you**.

12.2. **We** may immediately suspend, cancel or restrict (including by means of **Shaping**) the supply of the **Service** to **you** if:

- (a) **we** are entitled to under another clause of **our SFOA**;
- (b) without limiting **our** other rights under this clause 12.2, **you** are in breach of any material term of the **SFOA** (including any policy) which is capable of remedy and such breach is not remedied within 14 days of **us** notifying **you** to remedy that breach;
- (c) without limiting **our** other rights under this clause 12.2, **you** are in breach of any material term of the **SFOA** (including any Policy) which is not capable of remedy;
- (d) **you** are in breach **our** Acceptable Use Policy;
- (e) **you** have breached any of clauses 3.1, 3.2, 4.2, or 4.3;
- (f) **you** have breached any of your obligations relating to the use of the **Service** stated in the **Service Schedule**;
- (g) **we** reasonably believe **you** have provided **us** with false or misleading information;
- (h) **we** reasonably suspect fraud or other illegal conduct by **you** or any other person in connection with the **Service**;
- (i) **we** reasonably believe a threat to the security of the **Service** or **our Network** (or a Supplier's **Network**) exists and that threat is caused directly or indirectly by **you**;
- (j) it is necessary to comply with **our** legal obligations; **we** discover or reasonably believe that **you** are a minor;
- (k) an authority such as the ACMA or enforcement agency instructs **us** to do so;
- (l) **you** vacate the **premises** in which **you** are provided the **Service** without notifying **us** beforehand;
- (m) **you**, being a natural person, die;
- (n) **you** abuse, threaten, attempt to or cause harm to, **equipment** or **network** infrastructure of **ours** or any of the **service** networks;
- (o) your behaviour towards **us** or **our** representatives has been verbally or physically abusive, threatening or inappropriate, or amounts to bullying or harassment; or
- (p) **you** have made multiple complaints without a reasonable basis for doing so and **you** continue to make such complaints after **we** have asked **you** to stop;
- (q) **we** reasonably believe **you** are an unacceptably high credit risk;
- (r) an **Insolvency Event** occurs, or **we** reasonably believe an **Insolvency Event** is about to occur, in relation to **you**, your business, or a **Related Body Corporate**;
- (s) **you** being a partnership, dissolve, threaten or resolve to dissolve or are in jeopardy of dissolving;
- (t) **we** reasonably believe there has been an **Excessive Use** of the **Service**;
- (u) **you** cease or threaten to cease conducting business in the manner **you** were conducting business at the **Service Commencement Date**; or
- (v) **you** resell the **Service** or otherwise act as a **Carriage Service Provider**.



- 12.3. Without limitation **our** rights under any other terms of the **SFOA**, **we** may immediately suspend, cancel or restrict (including by means of **Shaping**) the supply of the **Service** to **you** if:
- (a) there are technical problems with **our Network** or a Supplier's **Network**, **our Network** or a Supplier's **Network** requires repairs or maintenance, or for other operational reasons;
  - (b) there is an emergency;
  - (c) a **Supplier** cancels an agreement with **us**, or stops supplying **services** to **us**, and **we** are unable to provide the Service to **you** using Services from an alternative **Supplier** on terms reasonably acceptable to **us**;
  - (d) **we** are required by law or in order to comply with an order, notice, direction or request from a **Regulatory Authority**, law enforcement agency or emergency services;
  - (e) where a **Force Majeure Event** prevents **us** from supplying the **Service** to **you** for more than 14 days; or
  - (f) **we** reasonably suspect a threat to the security of the **Service** or **our Network** (or a Supplier's **Network**) exists and that threat is not caused directly or indirectly by **you**.
- 12.4. Where possible in the circumstances, **we** will provide **you** with reasonable notice of any suspension, cancellation, or restriction of the **Service** under clause 11.3.

### 13. **Cancellation by You**

- 13.1. Except as otherwise provided in the **Service Schedule** for your **Service**, **you** may cancel the **Service**, without liability, by giving **us** notice:
- (a) at any time, where there is no **Contract Term** specified in the **Service Schedule** or your Application;
  - (b) if a **Contract Term** is specified in the **Service** Description or your Application, at any time after the end of the **Contract Term**;
  - (c) at any time, if **we** have breached a material term of the **SFOA** and the breach is not capable of remedy;
  - (d) if **we** have breached a material term of the **SFOA** which is capable of remedy and such breach is not remedied within 14 days of **you** notifying **us** to remedy that breach;
  - (e) of 14 days, where there has been a significant **interruption** to the **Service** (more than 14 days, or more than three interruptions of 2 days or more in a 12-month period), unless that **interruption** occurs due to:
    - i) a permitted cancellation, suspension or restriction of the **Service** under clause 12.2;
    - ii) a fault or other event reasonably attributable to your acts, omissions, or **equipment**.
- 13.2. **You** may cancel the **Service** for any reason before the end of the **Contract Term** by giving 30 days notice to **us**, but **we** may require **you** to pay an Early Termination Fee in accordance with clause 14.1(a).

## 14. Consequence of Suspension and Cancellation

- 14.1. If the **Service** is cancelled in accordance with our **SFOA** (other than under clause 12.1(c), 12.3, 13.1(c), 13.1(d), 13.1(e)):
- (a) during the **Contract Term**, **you** must pay **us** an Early Termination Fee;
  - (b) before the **Service Commencement Date**, **we** may charge **you** any costs reasonably incurred by **us** in preparing to provide the **Service** to **you**.
- 14.2. Where the **Service** is cancelled, **you** must pay **us** all charges incurred prior to cancellation.
- 14.3. If **we** reconnect a **Service** that has been cancelled or suspended, **we** may require **you** to pay a reconnection fee. **We** will not require payment of a reconnection fee where the **Service** was cancelled or suspended under clause 12.3, 13.1(c), 13.1(d), 13.1(e).
- 14.4. When your **Service** is cancelled:
- (a) **you** must immediately cease using the **Service**;
  - (b) **you** must return to **us** all other material of ours, including any software, on the **Premises** or in your possession or control;
  - (c) each party's accrued rights and obligations are not affected (unless otherwise stated in the **SFOA**);
  - (d) **we** may delete all of your data from any storage media (it is your responsibility to back-up any of your data);
  - (e) all parts of our **SFOA** which are intended to survive cancellation will continue unaffected, including clause 3.1, clause 3.2, clause 8, clause 12, this clause 14, clause 15, clause 16, clause 17, clause 18.
  - (f) under clauses 12.2, 13.1(a) or 13.1(b), **you** must pay any outstanding amount for any purchased **equipment** which **you** have not fully paid for at the date of cancellation;
  - (g) under clauses 12.3, 13.1(c), 13.1(d), or 13.1(e), and where the **equipment** may be used with another telecommunications provider, **you** must pay any outstanding amount for any purchased **equipment** which **you** have not fully paid for;
  - (h) under clauses 12.3, 13.1(c), 13.1(d), or 13.1(e), and where the **equipment** cannot be used with another telecommunications provider, **you** must return any **equipment you** have purchased but not fully paid for to **us**, and on return of **equipment** in an acceptable condition, **we** will refund any amounts **you** have already paid;
  - (i) under clause 13.2, where **we** supplied **equipment** on the condition that **you** acquire the Service for the full **Contract Term** then:
    - (i) where **we** supplied **equipment** free of charge **you** must either return the **equipment** to **us**, or retain the **equipment** or pay **us** for it in full; or
    - (ii) where **we** supplied **equipment** at a discount **you** must either return the **equipment** to **us** (and **we** will refund the amount paid) or retain the **equipment** and pay **us** an amount equivalent to the discount.

## 15. Liability

### Our Liability to You

- 15.1. **We** provide the **Service** to **you** subject to the terms, conditions and contained in the **SFOA**. **You** also have certain non-excludable rights under the **Australian Consumer Law** and other laws, which may imply certain conditions and warranties into this agreement (including applicable Consumer Guarantees).
- 15.2. The **Customer Service Guarantee** (CSG) provided under the **Telecommunications Legislation** also proscribes minimum performance standards for certain telecommunications services, breach of which entitles **you** to certain specified amounts of damage. **We** will comply with such standards to the extent that they apply to the **Services** offered.
- 15.3. Subject to the rights, implied conditions and warranties referred to in clauses 15.1 and 15.2, any liability **we** may otherwise have to **you** in connection with the SFOA or the **Service** is expressly excluded.
- 15.4. Where **we** are liable for any loss or damage in connection with or arising from the breach of any term, condition, warranty or remedy implied by the **Australian Consumer Law**, **our** liability is limited to resupplying, repairing or replacing the relevant service or **equipment** (or paying the cost of resupplying, repairing or replacing the relevant service or **equipment**). This limitation does not apply:
- (a) if **you** can establish that it is not fair and reasonable for **us** to limit **our** liability;
  - (b) where the service or **equipment** is of a kind ordinarily acquired for personal, domestic or household use or consumption;
  - (c) to personal injury or death;
  - (d) to loss, destruction or damage to, or loss of use of tangible property; or
  - (e) to a breach of Consumer Guarantees relating to clear title, undisturbed possession and undisclosed securities under sections 51, 52 and 53 of the **Australian Consumer Law**.
- 15.5. **You** must let **us** know as soon as **you** become aware of or believe that **you** have a claim against **us**.

### Internet Connection

- 15.6. **We** are not liable for any defamatory, offensive or illegal conduct or material found in using **our Services**, including such conduct or material transmitted by any means by any other person.

### Contributory Loss

- 15.7. **Our** liability for any loss, cost, liability or damage suffered by **you** under or in connection with the **Service** is reduced to the extent that your acts, omissions or **equipment** (or a third party's acts, omissions or **equipment**) caused or contributed to that loss, cost, liability or damage.

### Third Part Acts and Omissions

- 15.8. **We** are not liable to **you** or any other person for the acts or omissions of any third party (other than **our** agents), including any **Supplier** who is not acting as **our** agent and any person who provides goods or services directly to **you** for use in connection with the **Service**.

### Consequential Loss

- 15.9 **We** exclude any liability to **you** for any Consequential Loss suffered or incurred by **you**, except to the extent **you** are entitled to recover reasonably foreseeable losses under the **Australian Consumer Law**.

### Service Interruption

- 15.10. Subject to clause 15.11, where your **Service** is subject to an **Interruption** you may be entitled to a refund or rebate for the period of the **Interruption**. The **Service Schedule** may set out a formula for calculating the relevant refund or rebate. **You** may also be entitled to cancel the Service under clause 13 above.
- 15.11. **You** will not be entitled to any refund or rebate under clause 15.10 where **interruption** occurs because of:
- a) a cancellation, suspension or restriction to your **Service** in accordance with clause 12.2;
  - b) a fault or other event which may reasonably be attributed directly or indirectly to your **equipment**;
  - c) your acts or omissions; or
  - d) scheduled maintenance (lasting less than 10 hours) to **our Network**, a Supplier's **Network**, **our equipment** or **equipment** supplied by **us** to **you**; or
  - e) an outage caused by a natural disaster, or severe thunderstorm or weather; or
  - f) an outage caused by third parties, such as a vehicle accident or vandalism.
  - g) The Internet service will not work during **Power outages** as the router requires mains power to operate. In the event of a power outage, Fibre Up Pty Ltd has UPS power which is supplemented by generator power to maintain an Internet connection for those customers who run off solar battery power or their own generators.
- 15.12. Except for the liability expressly accepted under this clause 15 (and any liability **we** have under the **Australian Consumer Law** and Consumer Guarantees that cannot be excluded), **we** exclude all other liability to **you** (whether based in contract, tort (including negligence), statute or otherwise) for suspending, canceling or restricting the Service in accordance with this **SFOA**.
- 15.3. To receive any rebate or refund under clause 15.10, **you** must contact **us** in writing to inform **us** of the **Interruption**.

#### 15.14. Force Majeure

Subject to your non-excludable rights under the **Australian Consumer Law**, we are not liable for:

- (a) any delay in installing any **Service**.
- (b) any delay in correcting any fault in any **Service**.
- (c) any failure or incorrect operation of any **Service**, or
- (d) any other delay or default in performance under this **SFOA**,

if it is caused by any **Force Majeure Event**.

#### Your Liability to Us

15.15. Where **you** are two or more persons your liability will be joint and several and each of you is jointly and individually responsible for all charges and obligations in relation to the **Service**.

15.16. **You** indemnify **us** from and against all actions, claims, suits, demands, liabilities, loss, damage, costs and expenses arising out of, or in any way connected with, your (or any person acting with your express or implied authority):

- (a) use of the **Service**, or **equipment** used in connection with the **Service**, in any manner contrary to the terms of the **SFOA**; or
- (b) negligent acts or omissions.

15.17. **You** indemnify **us** from and against all actions, claims, suits, demands, liabilities, loss, damage, costs and expenses arising out of or in any way connected with the suspension or cancellation of your **Service** (unless the suspension or cancellation arose under clause 12.3 (suspension not caused by your default), including those arising from a claim against us by any third party that relates to the suspension or cancellation of your **Service**).

15.18. **You** must ensure that any person who **you** allow to use the **Service** complies with the terms the **SFOA**.

#### 16. Assignment and Subcontracting

16.1. **You** must not assign or transfer or otherwise deal with any of your rights or obligations under this **SFOA** without **our** prior written consent.

16.2. **We** may perform any of **our** obligations under the **SFOA** by arranging for them to be performed by another person, including a **Supplier** or subcontractor. **We** will remain responsible for the performance of the obligations.

- 16.3. **We** may assign some or all of **our** rights under **our SFOA** to any other person.
- 16.4. **We** may transfer some or all of **our** obligations under the **SFOA** to:
- (a) another **Fibre Up Pty Ltd** Entity;
  - or
  - (b) a purchaser of **our** business,
- provided that the transferee agrees to provide the **service** to **you** on terms substantially the same as the terms and conditions of the **SFOA**.
- 16.5. Otherwise **we** may transfer, or otherwise deal with **our** obligations under the **SFOA** on any terms to which **you** consent.

## 17. **General**

### **Governing Law**

- 17.1. This **SFOA** is governed by the laws of the Commonwealth of Australia
- 17.2. **You** and **we** agree to submit to the exclusive jurisdiction of the courts of the Commonwealth of Australia.

### **Severance**

- 17.3. If any part of this **SFOA** is void, voidable or unenforceable in any jurisdiction, it will be severed and the remainder of the **SFOA** will continue in force unaffected.

### **No waiver**

- 17.4. If **you** breach the **SFOA** and **we** do not exercise a right arising from that breach, **we** do not waive **our** entitlement to exercise that right, unless **we** do so expressly in writing.

### **Notices**

- 17.5. Any notice, approval or consent under the **SFOA** must be in writing, except for variations by **us**, for which notice can be given in accordance with the **Telecommunications Act** (see clause 1.5). In the absence of evidence to the contrary, such notice approval or consent will be deemed to be received:

- (a) where left at the address of the addressee, at the time it was left;
- (b) where sent by ordinary post, on the third day after posting;
- (c) where sent by express post, on the next day after posting;
- (d) where sent by facsimile or other electronic transmission, at the time the system on which the notice was sent records the notice as having been transmitted.

- 17.6. Where **we** send **you** a notice, **we** will send it using the contact details **we** have recorded for your account at the time **we** send the notice.
- 17.7. Where **you** send **us** a notice, **you** must send it using the contact details provided by email or on **our Website** at the time **you** send the notice.

### **Intellectual Property and Software Licences**

- 17.8. **We** own all material (including intellectual property rights) developed by (or at the direction of) **us**, **our** staff or other personnel. **We** may allow **you** to use this material, or other material licenced by **us**, as part of the **Service**. Your use of this material is subject to any terms and conditions **we** impose and will cease when the **Service** is cancelled.
- 17.9. **You** do not own or have any legal interest in **our** intellectual property or any personal identifier issued by **us** to **you**, including any IP address, domain name, personal identification number, or telephone number.

### **No Reliance**

- 17.10. While **we** make reasonable efforts to ensure the information on **our Website** is correct and up to date, **we** do not warrant the accuracy of that information.
- 17.11. **Our** staff may provide **you** with advice in good faith to assist your use of the **Service**. However, **we** do not represent that **our** staff are experts in your particular computer hardware or software. Subject to your non-excludable rights under the **Australian Consumer Law** (which **we** do not exclude), **you** acknowledge that any action **you** take on advice given by any of **our** staff is taken at your own risk.

### **Further Information About Your Rights**

- 17.12. Further information and advice about your rights can be obtained by contacting the Australian Communications and Media Authority, the Telecommunications Industry Ombudsman, the Australian Competition and Consumer Commission, or Consumer and Business Services (New South Wales).

## 18. Definitions and Interpretation

18.1. In the **SFOA**:

**Acceptable Use Policy** or **AUP** means the document forming part of the **SFOA** that sets out **Fibre Up Pty Ltd** policies on responsible, unreasonable, excessive, prohibited, and unacceptable use of the **Service**.

**Application** means your application made in accordance with clause 2.

**Approved Purposes** means:

- (a) providing directory assistance services;
- (b) providing operator services or operator assistance services;
- (c) publishing and maintaining public number directories;
- (d) providing location dependent carriage services;
- (e) the operation of emergency call services or assisting emergency services under the **Telecommunications (Consumer Protection and Service Standards) Act 1997**;
- (f) assisting enforcement agencies or safeguarding national security under the **Telecommunications Act 1997** or any other applicable legal requirement;
- (g) verifying the accuracy of information provided by the data provider and held in the Integrated Public Number Database against the information the data provider holds;
- (h) undertaking research of a kind specified in the Telecommunications IPND - Permitted Research Purposes Instrument 2007;
- (i) assisting the Australian Communications and Media Authority, or its nominee, to verify the accuracy and completeness of information held in the IPND; and
- (j) any other purposes where permitted by the **Telecommunications Act 1997**, and any other applicable laws.

19. **Australian Consumer Law** means Schedule 2 of the *Competition and Consumer Act 2010 (Cth)*.

**Authorised Representative** means any person nominated by you to exercise any of your rights under the SFOA.

**Carriage Service Provider** has the meaning given by section 87 of the *Telecommunications Act 1997*.

**Consumer Guarantee** has the meaning given in Division 1 of Part 3-2 of the Australian Consumer Law.

**Contract Term** means the minimum contract term stated in your Application, which commences on the Service Commencement Date.

**Corporations Act** means the *Corporations Act 2001 (Cth)*.



**Credit Information** means:

- (a) personal identifying particulars, including name, gender, current and previous addresses, date of birth, telephone or mobile number, banking details, credit card details, employer details, and drivers licence number;
- (b) your application for credit or commercial credit, the fact that you have applied for credit and the amount;
- (c) the fact that we are a current credit provider to **you** and any credit limit on your account;
- (d) payments which are overdue by more than 60 days or for which debt recovery action has commenced;
- (e) advice that payments are no longer overdue for any default listed;
- (f) the fact that, in our opinion, you have committed a serious credit infringement (for example, committing or attempting to commit fraud);
- (g) information about any payments which have been dishonoured, including cheques, credit cards and direct debits;
- (h) court orders or bankruptcy orders made against you; and
- (i) the fact that **we** have ceased providing the Service to you and the timing of that cessation of service.

**Credit Rating** means information about your credit worthiness, credit standing, credit history, or credit capacity that credit providers are entitled to give each other under the Privacy Act.

**Critical Information Summary** means the document describing the critical information relating to the Service.

**Customer Service Guarantee** means the performance standards under Part 5 of the *Telecommunications (Consumer Protection and Service Standards) Act 1999* (Cth).

**Downgrade** means a variation to the Service which reduces the capacity, **Usage** or utility applicable to the Service and results in a reduction in charges payable for the Service.

**Downgrade Fee** means the fee for Downgrade specified in the Service Schedule or Pricing Schedule.

**Download** means data that is inbound to your internet connection.

**Excess Usage Charges** means the charges payable for use over and above your Monthly Usage Allowance.

**Excessive Use** means high out of pattern use of the Service in a short term period or a sustained high usage which exceeds the general average usage of customers on a similar Service Schedule or Pricing Schedule.

**Force Majeure Event** means any event or circumstance reasonably beyond our control, including but not limited to; war, accident, civil commotion, riot, military action, sabotage, act of terrorism, vandalism, embargo, judicial action, labour dispute, an act of a government or a government authority, acts of God, earthquake, fire, flood, storm, plague or other natural calamity, computer viruses, hacker attacks, failure of the internet, failure in electrical power supply, failure of air-conditioning or humidity control, cut cables, or delay, failure or default by any other **supplier**.

**Handling Fee** means a fee incurred by us in providing you with a refund.

**Hardware Warranty Information** means the document forming part of this SFOA which states your rights with respect to some **equipment we** supply to you, the warranty periods that apply and how to make a warranty claim.

**Insolvency Event** means you:

- (a) become bankrupt;
- (b) become unable to pay your debts as and when they are due;
- (c) suspend payment of any of your debts;
- (d) become insolvent or are under administration (each as defined in the Corporations Act);
- (e) have a controller or administrator appointed (each as defined in the Corporations Act), or
- (f) are in liquidation, in provisional liquidation, or have a receiver appointed to any part of your property (as defined in the Corporations Act).

**Interruption** means a material delay in supplying, a failure to supply for a significant period, or a major error or defect in the supply of, goods or services.

**Key Terms** means, in context of clause 2 only, the terms and conditions **we** read out to you over the telephone.

**Monthly Usage Allowance** means the Usage that is provided per month in accordance with the plan chosen in your Application.

**NBN Co** means NBN Co Limited (ACN 136 533 741) or an entity that is related to NBN Co Limited in any of the ways specified in section 50 of the Corporations Act.

**Network** means a telecommunications network, including equipment, facilities or cabling.

**Fibre Up Entity** means Fibre Up Pty Ltd (ABN 79 235 447 383), or an entity related to Fibre Up Pty Ltd pursuant to section 50 of the Corporations Act.

**Fibre Up Pty Ltd Equipment** has the meaning set out in clause 7.4.

**Off Peak** means the hours in the day where your data usage counts toward your Off Peak quota allowance.

**Peak** means the hours in the day where your data usage counts toward your Peak quota allowance.

**Personal Information** means information or an opinion about you from which your identity is apparent or can be reasonably ascertained, including your name, address, service number, date of birth, email address, bank account or credit card details, occupation, driver's licence, Credit Information and Credit Rating.

**Premises** means the locations where we supply the Service, and locations where we require access to supply the Service.

**Pricing Schedule** means the pricing information specified on the Website in relation to the Service.

**Privacy Policy** means the Privacy Policy that appears on our Website, as updated from time to time.

**Regulatory Authority** means the Australian Communications and Media Authority (**ACMA**), the Australian Competition and Consumer Commission (**ACCC**), Communications Alliance, the Telecommunications Industry Ombudsman (**TIO**) or any other government or statutory body or authority.

**Related Body Corporate** has the meaning given in the Corporations Act.

**Service** means the service requested by you in your Application and described in the relevant Service Schedule and Pricing Schedule, and any related goods and ancillary services provided to you by us in connection with that Service.

**Service Commencement Date** means the date on which the Service is ready for use.

**Service Schedule** means the document describing the Service and setting out specific terms and conditions for the Service.

**Shaping** means the Download speed will be slowed to a maximum shaped speed specified in the relevant Service Schedule, Pricing Schedule, or Critical Information Summary.

**Supplier** means any supplier of goods or services that may be used directly or indirectly by us to supply the Service.

**Telecommunications Act** means the *Telecommunications Act 1997* (Cth) .

**Telecommunications Legislation** means the Telecommunications Act, the *Telecommunications (Consumer Protection and Service Standards) Act 1999* (Cth) and Parts XIB and XIC of the *Competition and Consumer Act 2010* (Cth), each as amended from time to time.

**Usage** means the amount of time generated or data Downloaded or uploaded by your Internet access.

**You** means the customer whom makes the Application, or where two or more persons have applied, means those persons jointly and individually (and 'your' has the corresponding meaning)

**Website** means Fibre Up Pty Ltd website – <http://www.fibreup.com.au>

1.2. Unless the context otherwise requires:

- (a) a reference to a clause is to a clause in these General Terms;
- (b) a term which is defined in any part of our SFOA has the same meaning in every other part of the SFOA;
- (c) different grammatical forms of the same word have the corresponding meaning;
- (d) the singular includes the plural and vice versa;
- (e) the terms 'we', 'us', 'our', 'you, and 'your will include their respective successors and permitted assigns and novates;
- (f) a reference to a person includes a reference to a person, partnership, corporation or other legal entity;
- (g) the words 'including', 'includes' or 'for example' or similar expressions are not words of limitation;
- (h) 'reasonable' notice means a period which is reasonable in the circumstances taking into account technical, operational and commercial factors.

Information is current as of 1, July 2020.

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