

SERVICE SCHEDULE –SATELLITE NBN SERVICE



1 SERVICE DESCRIPTION

- 1.1 **Telstra nbn™ Satellite Services (TnSS)** are a National Broadband Network (**nbn™**) Business Satellite Services offer utilising nbn owned/operated satellites and teleport facilities (**Service**).
- 1.2 The Service is supplied by us to you as per the requirements stated within the Service Order Form and will comprise of the following:
- (a) **Virtual Internet Service Product (VISP)** is a point to point enterprise satellite broadband service, connecting a distant end Very Small Aperture Terminal (**VSAT**) NTD located at your site to a partner teleport. A VISP service comprises of the following:
- (i) NTD;
 - (ii) Bandwidth;
 - (iii) Operational Assurance;
 - (iv) installation; and
 - (v) value added options (QoS Marking or VoIP Prioritisation for eligible customers).
- 1.3 Other than as specified under this Service Schedule, we are not responsible for any other equipment provided or used by you in conjunction with the Service.
- 1.4 You acknowledge that TnSS is only available for use in the Coverage Area.
- 1.5 Where a value-added option is chosen, a Global Managed Network Service (GMNS) router must be ordered, and the respective Service Schedule and Service Order Form will apply.

2 YOUR OBLIGATIONS

- 2.1 You must:
- (a) commit and assign a technical representative per site to participate in any testing procedures that may be reasonably requested by us or any agent, Affiliate or contact of us or any Service Providers;
 - (b) make your own arrangements for all equipment insurance for Equipment at remote end, as applicable;
 - (c) must obtain, maintain and pay for valid and enforceable insurance policies with insurers reasonably satisfactory to us and for, equipment or property damage (in respect of property owned by us, you and third parties) at Customer end, or as otherwise by applicable law, and any applicable law relating to employer's or employee compensation;
 - (d) produce to use on request by us, certificate of insurance evidencing the levels of insurance required under this Service Schedule;
 - (e) promptly notify us in writing if any Equipment is lost, stolen, damaged, destroyed or otherwise unfit or unavailable for use. Subject to the Consumer Protection Law clause of this Service Schedule, you are liable for any loss or damage to the Equipment (including cost of replacement), except in relation to ordinary wear and tear;
 - (f) not alter, modify or repair the Equipment without our prior written consent. If you make any alterations, modifications or repairs to the Equipment and those alternations, modifications or repairs:
 - (i) impair the condition of the Equipment or diminish its use or value, we may charge you an additional repair fee of an amount required for us to replace the applicable Equipment (where we reasonably believe this is required); or

(ii) result in additional equipment being added to the Equipment then that additional equipment will become part of the Equipment at the end of the term of the Agreement and we may charge you an additional reasonable amount to remove such additional equipment.

(g) not use the Service for or in any connection with illegal or unlawful purpose or manner including to:

(i) interfere with, to gain unauthorised access to or otherwise violate the security of our or another person's server, network, personal computer, network access or control devices, software or data, or other systems; and not

(ii) transmit content in breach of any applicable government laws, rules, regulations and/or restrictions including, without limitation, patent, copyright, trademark, obscenity and defamation.

2.2 Notwithstanding anything else in this Agreement but subject to the Consumer Protection Law clause of this Service Schedule, you agree that:

(a) to the extent permitted by law, the Service is provided 'as is' and without warranty of quality of availability;

(b) use of the Service is at your own risk, except to the extent we (or our contractors') have acted negligently;

(c) you are using a public, unfiltered internet connection and should take all precautions for the security and filtering (if applicable) of your information;

(d) you are responsible for any loss or damage to equipment, device or to any information or other data that may result from you use of the Service, except to the extent such loss or damage is caused or contributed to by our (or our contractors') negligence;

(e) there may be interruptions, delays, omissions, inaccuracies with the Service and that it may not be available at sometimes;

(f) subject to clause 2.3, and to the extent permitted by law, you release nbn and its related bodies corporate, affiliates, directors, officers, agents, employees, contractors or representatives, but excluding Customer, (Released Parties) from any and all liability that may arise in connection with the Service or your use of the Service; and

(g) you hold the benefit of this clause for and on behalf of the Released Parties, and any of the Released Parties may enforce this clause as if it were party to this agreement.

2.3 Clause 2.2(f) does not apply to a claim by you for loss or damage suffered or incurred by you arising from or in connection with:

(a) any damage to, or loss of, tangible property to the extent that such losses are caused or contributed to by nbn™, its Related Bodies Corporate or any of their respect Personnel or third-party suppliers; or

(b) the death or personal injury of any person to the extent caused or contributed to by:

(i) negligent or wilful acts or omissions of nbn its Related Bodies Corporate or any of their respective Personnel or third-party suppliers; or

(ii) any equipment or network owned, operated or controlled by nbn.

3 EQUIPMENT

3.1 Risk of loss or damage to the Equipment transfers to you on delivery.

3.2 Title to each item of Equipment transfers to you once you have paid for the Equipment in full. Once title has transferred to you, we will have no right, title or interest in or to Equipment.

3.3 You must promptly return the Equipment to us or any location we specify, at your cost and risk:

- (a) if any of the Equipment is not, in our reasonable opinion in good working order, condition and repair (except for ordinary wear or tear), upon its return to us we may charge you (at our option):
 - (i) our reasonable costs in restoring and refurbishing the Equipment; or
 - (ii) the cost of replacing the Equipment.

4 CHARGES

- 4.1 The charges payable by you to us for each Service are set out in the Service Order Form for that Service and may include:
 - (a) a fixed non-recurring charge (NRC);
 - (b) a fixed monthly recurring charge (MRC); and/or
 - (c) a variable usage charge for your Bandwidth usage in excess of your committed Bandwidth plan. Additional Bandwidth usage will be charged in increments of 100GB.
- 4.2 Fixed monthly recurring and non-recurring charges are payable in advance.

5 TERM AND TERMINATION

- 5.1 The Service Term for each Service provided under this Service Schedule commences on the Service Start Date and continues for the Service Term unless terminated or renewed.
- 5.2 If you downgrade your Service, your Service Start Date will be for the specified Service Term from the beginning of the next Invoice Period.
- 5.3 The Initial Period for a Service is specified in the Service Order Form for that Service, or if no period is specified then the Initial Period is 12 months (**Initial Period**).

6 SERVICE PROVISIONING TIMES

- 6.1 All delivery dates and installation costs noted within the Service Order Form are only indicative until a feasibility study has been conducted. Once the feasibility assessment is completed, we will notify you in writing of the delivery date (**Firm Delivery Date**).
- 6.2 All provisioning lead times are during Business Hours.
- 6.3 Where the Service Order for a Service is changed at your request, then the Firm Delivery Date initially provided will not apply unless a new feasibility assessment is conducted. We will advise you on a new Firm Delivery Date upon completion of an updated feasibility assessment.
- 6.4 Service Start Date initiates upon completion of the installation as confirmed by your technical point of contact on site.

7 SITE SURVEY

- 7.1 After acceptance of a Service Order Form, we will carry out a service delivery site survey (**Site Survey**) for the relevant Service. If the Site Survey reveals that the Service is unavailable or additional costs (including costs arising from capital works, on-site cabling or wiring or building management charges) are required to deliver the Service, we may propose an amendment to the Service and the charges for the Service by notice to you. If you do not accept the amended Service or the amended charges, you may cancel the Service provided that you reimburse us of any third-party costs that we reasonably incur in anticipation of providing the Service to you and that cannot be reasonably avoided by us in relation to your termination of the impacted Service.

8 SERVICE PROVIDERS

- 8.1 You acknowledge that we will be contracting with Service Providers for the supply of Satellite Capacity Satellite

equipment, on-site services and any other services for the provision of the Service.

- 8.2 Notwithstanding that we use a Service Provider, we are the supplier to you and the Service Providers have no liability to you.

9 SERVICE LEVEL TARGETS

- 9.1 From the Start Date, the target Service Availability for each nbn Satellite Service is 99.7% (**Service Availability**).

- 9.2 Service Availability indicates the percentage of time a Service is available to you in each Quarter (**Service Availability Period**) and is calculated as follows:

$$\text{Service Availability (\%)} = 100 - \frac{N}{T}$$

where: N = total number of minutes where the Service is unusable

T = total period of the Service Availability Period (calculated in minutes)

- 9.3 If the actual service availability of a Service falls below the Service Availability during a Service Availability Period, you are entitled to a rebate for that Service Availability Period.

- 9.4 The rebate is calculated by reference to a percentage of monthly recurring charges payable in the Service Availability Period equivalent to the percentage of Service Unavailability in the Service Availability Period for the affected Service.

- 9.5 Subject to the Consumer Protection Law clause of this Service Schedule, we will not be liable for failing to provide the Service (including failing to meet a Service Level) arising from:

- (a) suspension of the Service in accordance with the Agreement;
- (b) any interruption of the Service as agreed by us and you;
- (c) faults or unavailability due to an Exclusion Event, scheduled or unscheduled emergency supplier maintenance, repairs, installation or testing. We will notify you in writing when we are made aware of any such fault or unavailability;
- (d) any fault with supplier satellite(s) whereby the satellite(s) is taken out of commercial operation, unless a replacement is put in place and except to the extent such a fault is caused or contributed to by our (or our supplier's) negligence. We will notify you in writing when we are made aware of such fault;
- (e) your failure to comply with and observe our policies and procedures, Service Guide; or
- (f) unavailability of your relevant personnel at times necessary for testing or connection.

OPERATIONAL ASSURANCE TARGETS

- 9.6 Operational Assurance Targets will be as per the defined Assurance Level which you have selected within the Service Order Form and Service Guide.

- 9.7 Available Operational Assurance Targets will differ between remote support and support requiring site visits. Targets are as noted within your Telstra nbn Satellite Service Guide (**Service Guide**).

- 9.8 Subject to the Consumer Protection Law clause of this Service Schedule, we do not guarantee but will make reasonable efforts to meet the targets and timeframes in the Service Guide.

- 9.9 If you opt to upgrade or downgrade your Operational Assurance Level this change will only be applied within the next Invoice Period.

10 MAXIMUM CREDIT ENTITLEMENTS

- 10.1 To claim a rebate, you must follow the procedure set out in the Agreement Terms. Each Service Level is also subject to Exclusion Events set out in the Agreement Terms and this Service Schedule.
- 10.2 Subject to the Consumer Protection Law clause of this Service Schedule, rebates and any rights to cancel a Service under the Service Levels are your sole remedy for our breach of a Service Level. Other than as expressly provided in this Agreement and subject to Consumer Protection Law provisions in this Service Schedule, we do not warrant or guarantee that the Services will be available to you on demand or continuously during the Service Term.
- 10.3 The aggregate rebate payable in a month under these Service Levels in respect of a Service is subject to a maximum of 30% of the monthly recurring charges for the affected Service in that month.
- 10.4 If for a Service, in a month you are entitled to make a claim for a rebate in respect of more than one Service Level in relation to the same event or outage, you may only make a claim for a rebate in respect of one of those Service Levels.

11 EARLY TERMINATION CHARGES

- 11.1 If you cancel a Service for any reason other than our material breach of this Agreement at any time:
- (a) prior to the Service Start Date for that Service, you must pay us an Early Termination Charge (**ETC**) in the amount of the costs reasonably incurred by us as a result of the termination including any reasonable amounts payable to our Service Provider as a result of the cancellation of the Service(s); or
 - (b) during the Service Term, the ETC is amount equal to the actual costs and expenses that we have incurred or committed to in anticipation of providing the Service to you and that cannot be reasonably avoided by us as a result of the cancellation,
- which will not exceed an amount calculated as:
- $$\text{ETC} = 100\% \text{ of Remaining Equipment Charges} + (\text{Shortfall Period} \times \text{Monthly Recurring Service Charges})$$
- 11.2 If you downgrade a Service, your ETC will be calculated as above except your:
- (a) Remaining Equipment Charges will be calculated from their original Term and;
 - (b) Monthly Recurring Service Charges will be calculated from your new Service Start Date as per your new downgraded service charges, set out in your Service Order form.
- 11.3 If you do not pay any undisputed amounts due by the due date, we may, at any given time by giving you at least fourteen (14) days' notice:
- (a) refuse to provide any new Telstra nbn Satellite Services to you;
 - (b) suspend or limit your existing Telstra nbn Satellite Services.

12 EXCLUSION EVENTS

- 12.1 Subject to the Consumer Protection Law clause of this Service Schedule, we are not liable for failing to provide the Satellite Service or otherwise failing to perform our obligations under this Service Schedule due to circumstances beyond our reasonable control including:
- (a) Satellite malfunction;
 - (b) suspension of the Service in accordance with the Service Schedule;
 - (c) solar interference with a Service;
 - (d) a change to applicable laws or regulations requiring changes to the Satellite Service;

- (e) abnormal power conditions (including power failure);
- (f) unavailability or delay in the availability of Equipment or transportation in connection with any aspect of the Satellite Service;
- (g) being unable to obtain Approvals or a delay in the granting or obtaining Approvals from the relevant public authorities;
- (h) unscheduled emergency maintenance in connection with the Satellite Service; or
- (i) our inability to gain access to Your Site for maintenance or fault rectification in connection with the Service,

except to the extent any of the circumstances in paragraphs 12.1(a) to 12.1(i) are caused or contributed to by our (or our subcontractors') negligence or breach of contract) or

- (j) you failing to meet your obligations under this Service Schedule;
- (k) your failure to release the Service for maintenance or troubleshooting;
- (l) any interference or damage you cause to the Satellite Equipment;
- (m) your use of the Satellite Service in violation of our instructions; or
- (n) changes made to any part of a Satellite Service by anyone other than us (or our subcontractors).

13 CESSATION OF SUPPLY

- 13.1 We may limit, suspend or cancel the provision of a Service or transfer you to a reasonably comparable alternative service at any time by giving you written notice if a Service Provider ceases to supply, or gives us notice of its intention to cease to supply the services necessary for us to supply a Service to you. If we transfer you to a reasonably comparable alternative service and this has more than a minor detrimental impact on you, you may cancel your service without having to pay any early termination charges for that service.
- 13.2 Where possible, we will attempt to give you reasonable notice of a change in supply of the Service to you.
- 13.3 In addition to the termination rights under this Service Schedule, Early Termination Fees/Charges apply where a cessation is caused by your act or omission.

14 CONSUMER PROTECTION LAW

- 14.1 Nothing in this Service Schedule excludes or limits, or has the effect of excluding or limiting, the operation of the Australian Consumer Law or any similar applicable consumer protection law, or any right you may have under the Australian Consumer Law or any similar applicable consumer protection law.

15 DEFINITIONS

- 15.1 For the purposes of this Service Schedule:

Approvals means all licences, permits, authorisations, approvals and consents required in order to meet any Commonwealth, State, local government or other requirements in connection with the carrying out of the installation of the Equipment.

Australian Consumer Law means the law of that name set out in schedule 2 of the *Competition and Consumer Act 2010* (Cth).

Bandwidth means satellite bandwidth which we supply in relation to the Satellite Service to be used exclusively with the Equipment.

Business Hours means Monday to Friday 9am to 5pm local time.

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Coverage Area means on the Australian mainland (including the State of Tasmania) which may change from time to time.

Equipment means the Equipment purchased from us, as set out in the Agreement and in your Service Order Form.

Firm Delivery Date is defined in clause 6.1.

Initial Period is the period of the contract as set out in the Service Order Form.

Invoice Period is your monthly billing cycle as set out in the Service Order Form.

Monthly Recurring Service Charges are as set out in the Service Order Form.

Network Termination Device (NTD) is the Equipment supplied by Telstra on site which includes an indoor unit (IDU) comprising of a modem and an outdoor unit (ODU) comprising of the antenna, block up convertor (BUC) and power.

Operational Target is as set out in clause 9.6.

Provisioning Fault means the failure of the Service to meet the specifications set out in the relevant Service Order.

Quality of Service (QoS) Marking means the ability for the customer to manage their Services traffic class.

Remaining Equipment Charges means the remainder of any unpaid purchase price or amortised charges.

Service Availability is as defined in clause 9.2.

Service Level means the service levels applicable to the Service set out in clause 9.

Service means the Telstra nbn™ Satellite Service provided by Telstra pursuant to this Service Schedule and Service Order.

Service Availability Period is defined in clause 9.2.

Service Guide is defined in clause 9.7.

Service Providers means NBN Co Limited and any other third party service providers.

Service Order/Service Order Form means the order (including subsequent order forms) you've agreed to detailing your requirements and pricing for the procurement of our Services.

Service Start Date is defined in clause 6.4.

Service Term means the contractual period committed to as detailed within the Service Order Form.

Site Survey has the meaning set out in clause 7.1.

Shortfall Period means the lesser of 3 billing periods or the number of billing periods remaining in the minimum term as calculated from your Service Start Date (12 months for VISP only).

Virtual Internet Service Product (VISP) is defined in clause 1.2(a).

VoIP Prioritisation means a dedicated channel that is prioritised for Voice over IP (VoIP) calls on the Satellite Service.