

# SERVICE SCHEDULE – TELSTRA AGILE SATELLITE SERVICES



## 1 SERVICE DESCRIPTION

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- 1.1 The **Telstra Agile Satellite (TAS)** service is an on-net satellite service, utilising Telstra teleport facilities to provide satellite connectivity (**Service**).
- 1.2 The Service is a point-to-point or point-to-multipoint enterprise satellite service, connecting a distant end Very Small Aperture Terminal (VSAT) located at your Premises to a Telstra teleport and is further described in your Service Order Form for the Service. The Service comprises the following:
- (a) the Contention Plan and the Bandwidth described in your Service Order Form;
  - (b) Equipment;
  - (c) freight and installation of Equipment; and
  - (d) optional value added services as set out in your Service Order Form, including the following:
    - (i) Professional services (such as site survey and maintenance);
    - (ii) Dynamic Class of Service
    - (iii) Extended Warranty
    - (iv) Multicast service; and
    - (v) a Separate VLAN,(each, or together, "**Value Added Services**").
- 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 TAS is only available for use in the **Coverage Area**.
- 1.5 To be eligible for the Service you must be a business customer and meet any other eligibility requirements notified to you.
- 1.6 If you choose the Value Added Services described in clauses 1.2(d)(ii), 1.2(d)(iv) or 1.2(d)(v) of this Service Schedule, you will need to acquire:
- (a) a Global Managed Network Service (GMNS) router separately on the terms set out in the relevant Service Schedule and Service Order Form; or
  - (b) a customer-provided router that meets Telstra requirements.
- 1.7 If you elect to purchase, and we agree to provide, a Value Added Service with your Service then additional terms will apply as notified by us to you or as otherwise agreed with you.

## 2 YOUR OBLIGATIONS

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- 2.1 You must:
- (a) commit and assign a technical representative at each of your Premises to participate in any testing procedures that may be reasonably requested by us or our Service Providers;
  - (b) unless otherwise agreed in writing, you must comply with our directions as set out in the 'TAS Site Preparation Guide' document we provide to you from time to time (**TAS Site Preparation Guide**) and our other reasonable directions in relation to the preparation of your Premises for installation of Equipment.

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You acknowledge and agree that you are responsible for the preparation of your Premises in accordance with that TAS Site Preparation Guide, including carrying out any work and acquiring any required Approvals before our technician arrives at that Premises to install Equipment. Failure to meet the pre-installation described in this clause, prior to booking installation timeframes, may result in delays and our technician may need to revisit the Premises, in which case, we may charge you any reasonable costs associated with that revisit.

- (c) provide us with all assistance (including access to your Premises, equipment and systems) we reasonably require, to enable us to provide the Service to you and otherwise perform our obligations under this Service Schedule;
- (d) take all safety precautions reasonably necessary to ensure that:
  - (i) we (and our subcontractors and Service Providers) can safely and properly perform all the work that we consider necessary to perform at your Premises in order to provide you with the Service; and
  - (ii) your use of the Service and Equipment will not adversely impact any person (including any member of the public);
- (e) must obtain, maintain and pay for valid and enforceable insurance policies with insurers reasonably satisfactory to us covering damage to, loss or destruction of Equipment and other property owned by us at the Premises;
- (f) on request by us, provide a certificate of currency of insurance evidencing your compliance with clause 2.1(e) of this Service Schedule;
- (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
  - (ii) transmit content in breach of any applicable government laws, rules, regulations and/or restrictions including, without limitation, patent, copyright, trademark, obscenity, and defamation;
- (h) only use the Bandwidth in connection with the Equipment; and
- (i) not sell, resell or provide the Satellite Service, or any part of it, to any other person unless you obtain our prior written consent.

## **3 EQUIPMENT**

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- 3.1 Risk of loss or damage to the Equipment transfers to you on delivery to your nominated address.
- 3.2 Title to Equipment (other than Leased Equipment):
  - (a) remains with us until you have paid us in full for such Equipment; and
  - (b) passes to you once you haven paid the relevant fees or charges for such Equipment in full.
- 3.3 If we terminate a Service for your failure to pay the applicable charges for Equipment, you must promptly return the Equipment to us at any location we specify, at your cost and risk.
- 3.4 Title to Leased Equipment remains with us at all times.
- 3.5 You must:

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- (a) promptly notify us in writing if any Leased Equipment is lost, stolen, damaged, destroyed or otherwise unfit or unavailable for use;
- (b) keep Leased Equipment in good working order, condition and repair (except for ordinary wear and tear);
- (c) not sell, dispose of or encumber any Leased Equipment in any way; and
- (d) use Leased Equipment in accordance with our reasonable directions.

3.6 You must not alter, modify, or repair the Equipment without our prior written consent. You must ensure that any alterations, modifications, or repairs conducted by you or a third party on your behalf meet the specifications set out in this Agreement or otherwise notified to you from time to time.

3.7 If you make any alterations, modifications or repairs to the Leased Equipment (in accordance with clauses 3.6 of this Service Schedule or otherwise) and those alterations, modifications, or repairs:

- (a) impair the condition of the Leased Equipment or diminish its use or value, we may charge you an additional repair fee or an amount required for us to replace the applicable Leased Equipment (where we reasonably believe this is required); or
- (b) result in additional equipment being added to the Leased Equipment, that additional equipment will become part of the Leased Equipment at the end of the term of the Service and we may charge you an additional amount to remove such additional equipment.

3.8 You are liable for any loss of or damage to the Leased Equipment (including cost of replacement), except in relation to ordinary wear and tear and except to the extent such loss or damage is caused or contributed to by our (or our contractors') negligence. If any of the Equipment under clause 3.2(b), or Leased Equipment, is not, in our reasonable opinion, in good working order, condition and repair (except for ordinary wear and tear), upon its return to us, we may charge you (at our option):

- (a) our reasonable costs in restoring and refurbishing the Equipment or Leased Equipment; or
- (b) the cost of replacing the Equipment or Leased Equipment.

3.9 You are responsible for all costs relating to any alteration, modification or repair which you or a third party make to the Equipment, including any loss or damage which you or we may suffer as a result of that alteration, modification or repair.

## 4 CHARGES

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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) fixed Non-Recurring Charges (**NRC**); and
- (b) fixed Monthly Recurring Charges (**MRC**).

4.2 Unless otherwise agreed in your Service Order Form, all charges are payable in advance.

## 5 TERM AND TERMINATION

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5.1 If you upgrade or downgrade your Service during the Service Term, your Initial Period will recommence on the first day of the Invoice Period immediately after that upgrade or downgrade occurs. Any changes to your existing Service may incur additional charges.

5.2 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.

5.3 Notwithstanding any other clause in the Agreement Terms, this Service Schedule does not automatically renew for

any period after the expiry of the Initial Period.

## 6 SERVICE PROVISIONING TIMES

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- 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 Form 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 of a new Firm Delivery Date upon completion of an updated feasibility assessment.

## 7 WARRANTY AND EXTENDED WARRANTY

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- 7.1 In addition to any rights you may have under applicable consumer protection law, we warrant that, for 12 months from delivery, the Equipment will be free from defects that cause a material degradation in performance (**Standard Warranty**).
- 7.2 You may request, and we may agree, to extend the warranty period for the Standard Warranty for an additional fee and as agreed in your Service Order Form (**Extended Warranty**). The term of any Extended Warranty will not exceed the Service Term for your Service.
- 7.3 Standard Warranty and Extended Warranty are only applicable to the Equipment you purchase or lease as part of the Service. This includes the following components of such Equipment:
- (a) antenna;
  - (b) Block Up Convertor (**BUC**);
  - (c) Low Noise Block downconverter (**LNB**); and
  - (d) mount.
- 7.4 The Standard Warranty and Extended Warranty do not apply to Equipment that has been:
- (a) subject to misuse, neglect, abuse, improper storage, accident (other than an accident caused by the Equipment itself), or that has not been properly maintained;
  - (b) modified by any third party without our prior written consent; or
  - (c) that has been disassembled, serviced, or reassembled by any Third Party without written consent from Telstra.
- 7.5 To the extent applicable to you, further information regarding your potential rights under the Australian Consumer Law, and the process for claiming under this voluntary warranty are set out under 'Important Warranty Information' at the following link: <https://www.telstra.com.au/customer-terms>.

## 8 SERVICE PROVIDERS

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- 8.1 You acknowledge that we will be contracting with Service Providers for the supply of certain elements of the Service such as Equipment and on-site services.
- 8.2 Notwithstanding that we use such Service Providers, we are the supplier to you and the Service Providers has no liability to you in respect of our agreement with you for the Service.

## 9 ADDITIONAL OBLIGATIONS AND REQUIREMENTS

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- 9.1 You are responsible for all use of your Service or transmissions via your Service by any third party user of your Service to the same extent that you would be for your own use and transmissions (**User**).
- 9.2 You must:
- (a) ensure that Users comply with the terms in this Agreement in respect of your Service as if they were bound them;
  - (b) comply, and ensure that Users comply, with the Acceptable Use Policy available at <https://my.intelsat.com/Legal> and as amended from time to time; and
  - (c) only use the Service, and ensure that Users only use the Service for lawful purposes and in compliance with all applicable laws, regulations, licences, statutory rules or mandatory codes of conduct, including those of the US Federal Communications Commission where applicable;
  - (d) only use the Service in compliance with any operational requirements set out in this Service Schedule or a Service Order Form, or otherwise notified to you from time to time.
- 9.3 During the Service Term of your Service, we or our Service Providers may replace the satellite we use to provide the Service with another satellite that provides substantially similar coverage and performance, in which case, without limiting our other rights in this Agreement, we may migrate you to a modified or alternative service after giving you as much notice as reasonable possible in the circumstances. You acknowledge and agree that you will be responsible for any costs associated with that migration. If the service to which we propose you migrate would cause more than minor detriment to you, you may cancel the Service without the payment of any Early Termination Charges (other than any remaining Equipment charges) by providing us with written notice delivered within 45 days from our written notice to you under this clause 9.3.
- 9.4 Without limiting our other rights under this Agreement, we may suspend or terminate your Service if you breach any of the terms in this clause 9 immediately on notice to you.

## 10 SERVICE LEVEL TARGETS

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- 10.1 The Service Levels for each Service are set out in this clause 10. Service Levels in this clause do not include non-Telstra circuits. If you have a Telstra circuit then the relevant Service Schedule or Our Customer Terms (**OCT**) Service Levels apply in respect of that Telstra circuit.
- 10.2 From the Start Date, the target Service Availability for each Service is 99.7% (**Service Availability**). Service Availability indicates the percentage of time a Service is available to you in each month (**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 Invoice Period (calculated in minutes)

- 10.3 If the actual Service Availability of a Service (**Actual Service Availability**) falls below the Target Service Availability during a Service Availability Period, you are entitled to a rebate for that Service Availability Period.
- 10.4 The rebate is calculated by reference to a percentage of Monthly Recurring Charges payable in respect of the period in which the Service is not available.
- 10.5 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; or
  - (b) any interruption of the Service as agreed by us and you; or

- (c) faults or unavailability due to an Exclusion Event, scheduled or unscheduled supplier maintenance, repairs, installation or testing, we will notify you in writing when made aware of fault or unavailability; or
- (d) any fault with supplier satellite(s) whereby satellite(s) is taken out of commercial operation, unless a replacement is put in place, we will notify you in writing when made aware; or
- (e) unavailability of relevant personnel at times necessary for testing or connection; or
- (f) your failure to comply with and observe our policies and procedures, Service Guide; or

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

## 11 MAXIMUM REBATE ENTITLEMENTS

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- 11.1 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.
- 11.2 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, we do not warrant or guarantee that the Services will be available to you on demand or continuously during the term.
- 11.3 The aggregate rebate payable in a month under these Service Levels in respect of a Service is subject to a cap of 30% of the Monthly Recurring Charges for the affected Service in that month.
- 11.4 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.

## 12 EARLY TERMINATION CHARGES

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- 12.1 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 an 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 as a result of the cancellation, which will not exceed an amount calculated as:  
  
$$\text{ETC} = 100\% \text{ of Remaining Equipment Charges} + (\text{remainder of Initial Period} \times \text{Monthly Recurring Charges}).$$
- 12.2 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.
- 12.3 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 Services to you;
  - (b) suspend or limit your existing Service.

## 13 EXCLUSION EVENTS

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- 13.1 We are not liable for failing to provide the 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 Service;
  - (g) you being unable to obtain Approvals or a delay in the granting or obtaining Approvals;
  - (h) unscheduled emergency maintenance in connection with the Service;
  - (i) you failing to meet your obligations under this Service Schedule;
  - (j) our inability to gain access to your Premises for maintenance or fault rectification in connection with the Service;
  - (k) your failure to release the Service for maintenance or troubleshooting;
  - (l) any interference or damage you cause to the Equipment;
  - (m) using the Service in violation of our instructions; or
  - (n) changes made to any part of a Service by anyone other than us (or our subcontractors).

## 14 LIABILITY AND INDEMNITY

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- 14.1 You indemnify us from and against any and all claims, liabilities, losses, costs, expenses or damages (including reasonable attorney's fees) (**Loss**), which arise naturally (that is, according to the usual course of things) out of or relating to the provision of any Service from, or your use of, the satellite and terrestrial facilities of our Service Providers that are provided or made available to you in connection with the Service, except to the extent the Loss is caused or contributed to by us. We will take reasonable steps to mitigate our Loss suffered in connection thereof.

## 15 CESSATION OF SUPPLY

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- 15.1 We may limit, suspend or cancel the provision of a Service at any time by notice to you 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. You shall not be required to pay Early Termination Charges if the Service is terminated by us under this clause 15.1.
- 15.2 Where possible, we will attempt to give you reasonable notice of a change in supply of the Service to you.
- 15.3 In addition to the termination rights under this Service Schedule, Early Termination Charges apply where a cessation is caused by your act or omission.

## 16 DEFINITIONS

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16.1 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 installation of the Equipment.

**Bandwidth** means satellite bandwidth set out in your Service Order Form which we supply in relation to the Service.

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

**Contention Plan** means the maximum possible reduction in throughput for your Service as identified in your Service Order Form.

**Coverage Area** means Australia as updated from time to time on notice to you.

**Dynamic Class of Service** means IP packets can be classified and marked with varying levels of priority and applied to the network egress direction.

**Equipment** means the equipment set out in your Service Order Form, including any Leased Equipment.

**Extended Warranty** has the meaning given to it in clause 7.2 of this Service Schedule.

**Firm Delivery Date** is defined in clause 6.1.

**Invoice Period** the billing cycle for your Service as set out in your Service Order Form.

**Leased Equipment** means equipment described as such in your Service Order Form.

**Monthly Recurring Charges (MRC)** are as set out in the Service Order Form.

**Multicast** is group communication where information is addressed to a group of destination remote sites simultaneously.

**Non-Recurring Charges (NRC)** are as set out in the Service Order Form.

**Premises** means any land, building, structure, which is owned, controlled, used, leased or occupied by you: containing Equipment; or to which we supply the Telstra Agile Satellite Service.

**Separate VLAN** means data can be segregated across the satellite service.

**Service** has the meaning given to it in clause 1.1.

**Service Availability** is as defined in clause 10.2.

**Service Availability Period** is as defined in clause 10.2.

**Service Guide** means the TAS service guide document provided to you and as updated from time to time.

**Service Providers** means any of our other third-party service providers.

**Standard Warranty** has the meaning given to it in clause 7.1 of this Service Schedule.

**Telstra Agile Satellite** or **TAS** has the meaning given to it in clause 1.1 of this Service Schedule.