

Minopher ADSL Terms and Conditions Business Grade ADSL Supply Agreement.

1. Information regarding this agreement.

Please read this Agreement carefully.

The supply of Services under this agreement are provided by Minopher Pty Ltd ABN: 23 064 434 500 (in this agreement referred to as "our", "we", "us" or "Minopher" or "Minopher Network Solutions" or "nowDSL") Minopher Network Solutions may use third party suppliers and contractors for the supply of services under this agreement. By using the Minopher Network Solutions network you have indicated your acceptance of all the terms and conditions referred to in the Agreement.

Under Australian law, the SFOA applies whether or not you read it or signed it. If you and we have expressly agreed to different terms in a particular case, the SFOA still applies, but subject to those terms.

2. Definitions & Interpretation

"Agreement" means this agreement for the provision of services by us to you and includes the completed Schedule whether executed contemporaneously or not.

"Charges" means the charges payable by you to us pursuant to this agreement including but not limited to, access, usage, Default Fees, interest and consulting fees.

"Default Fees" means all charges, cost and expenses we may incur in relation to a breach by you of your obligations to us

"Schedule" means the duly completed Residential ADSL - Registration Form and the Additional Information Required for ADSL connections form.

"Service" means the supply of Asymmetrical Digital Subscriber Line access as described in this Agreement.

"GST" has the same meaning as described in "A New Tax System (Goods and Services Tax) Act 1999 and any related legislation.

"Service Commencement Date" means the date that your service is activated by us as advised by us.

"Application Date" means the date your application is received by Minopher Network Solutions either by online signup, fax or standard mail.

"Supply Period" is as described in section 4 of this Agreement

"Third Party Supplier" means a third party supplier used for the provision of services provided under this agreement.

3. Term of this agreement

This Agreement commences on the Application Date and will continue until Services are terminated by either party. If you terminate this Agreement you will remain liable for all Charges and all other amounts that you are required to pay under this Agreement.

4. Term of Supply of Service

The Service supply term of this agreement is a 24 month term (as indicated in regard to your applied plan rate) from the Service Commencement Date, at which time it will automatically renew for a further consecutive 12 month term(s) or if you make an agreed change to the service e.g speed. Until you provide at least 35 days written

notice requesting termination as provided. A termination notice must be received at least 35 days before the end of a Supply Period. Termination cannot be effected prior to the expiration of a Supply Period or penalties will apply.

5. Termination

A written termination notice must be received at least 35 days before the end of the Supply Period. Termination cannot be effected prior to the expiration of a prepaid Supply Period. Should the Service be terminated within 24 months from the Service Commencement Date by any of the following actions: Cancellation of the Service at your request. Re-location of the customer from the installed Service address. Disconnection or cancellation of the fixed phone line attached to the Service. You will be liable for a "disconnection fee" plus an "early termination fee" and/or "reconnection fee" and any unsettled excess data fees.

6. Notices

Notices under this Agreement may be sent by prepaid ordinary post, facsimile, or by electronic mail and will be deemed given :- For ordinary mail, three days after dispatch by post.

7. Our Obligations to you

In Accordance with the terms and conditions of this Agreement, we will use our best endeavours to provide you with a Service satisfactory to you and to provide the necessary information to access that Service. Minopher Network Solutions will use its best endeavours to ensure a continuous Service, however this is not guaranteed.

We will take care of any personal information you provide us, in accordance with the Privacy Act 2001.

While we will use our best endeavours to ensure the data you transfer will be received by the intended destination (including electronic mail) we cannot guarantee that it will reach the intended destination.

We will obtain and hold any necessary licenses required under law.

We will not be responsible for training you in the use of this Service.

8. Your obligations to us

You must provide us with accurate and truthful information in your Service application and keep us informed of any changes thereto.

You are responsible for all Telecommunications charges required for connecting to the Service.

You are responsible for providing and maintaining all necessary equipment for the connection to the Service, including but not limited to a Telstra telephone line, modem, and computer equipment.

You will be responsible for any collection fees (including legal fees and any other costs) incurred by us as a result of the collection of outstanding monies including interest at the rate prescribed by the Supreme Court Act plus 4% calculated daily and compounded monthly.

You will indemnify us in respect of all costs, damages and/or loss whatsoever including any third party claims or costs, howsoever arising from any default, breach or termination of this Agreement by you.



Should you terminate the Service prior to the expiration of a Supply Period you will immediately pay to us the Charges that would have been payable for the relevant Supply Period had the termination not occurred.

You agree that should you terminate your Service during a Supply Period that you will be liable for all Charges that would have been incurred until the end of the Supply Period. Or other agreed period of time.

You agree that we may use a Third Party Supplier for the provision of this Service.

You agree that you will not contact any of our Third Party Suppliers for any reason.

You agree that if you do contact one of our Third Party Suppliers that you will be liable for all costs imposed on us by our Third Party Supplier.

You acknowledge that our payment terms are strictly payment in advance for the base monthly charge and monthly in arrears for excess data traffic over your base allowance. We only charge for data downloaded we do not charge for up stream traffic. Should payment not be made as per this agreement you may be considered in default.

9. Service Description

The Service uses Asymmetrical Digital Subscriber Line technology. Any transmission speeds referred to by us refer to the maximum theoretical speed achievable with the Service under ideal conditions, and you acknowledge that actual speeds may be different than the theoretical speeds. Speeds may vary for reasons which include but are not limited to: Third Party Supplier network congestion, Third Party Supplier line interference, Internet Congestion, and errors in the configuration of your equipment.

The Service is provided on an "as is" basis and we cannot guarantee the provision of the Service to you where the service is reliant on a Third Party Supplier.

You agree that only equipment certified by us, as listed and updated on our web site from time to time will be used with the Service.

You agree that any other telephony equipment used on the same line as the Service must be isolated from interference by the use of an ADSL line filter.

The service is only available as an overlay to existing copper local loop provided by Telstra. Should you cancel your telephone service provided by the local loop, the Service will also cease to function.

A service level guarantee is provided for this Service. We will use our best endeavours to provide timely restoration of service, however no guarantee is provided.

The Service is only available on a Telstra copper local loop service. Additional Telstra service features may interfere with the supply of Service. These include but are not limited to: Customer Loop Metering, InContact, Line Hunt, OnRamp, Payphone, Siteline. A complete list may be available on request.

Customers must direct all service and performance enquires to Minopher Network Solutions's helpdesk, and not to our Third Party Suppliers. Calls regarding the Service made to Third Party Suppliers will incur a \$110 charge to Minopher Network Solutions, which will be invoiced to you by Minopher Network Solutions and you agree to pay this fee along with a \$20 handling fee.

Data travelling both to and from the Service will be metered as part of the included usage and excess usage charges (only excess downloaded data will be charged and is not limited to standard yearly or monthly service charges).

10. No Liability

Due to limitations provided on us by our Third Party Suppliers, the service is not guaranteed to work and there is no timeframe for the restoration of a service should it fail.

The Service can only be provided on a "Qualified Pair" as described by our Third Party Supplier.

You warrant that the End User to whom Telstra supplies a standard telephone service is the same End User of this Service.

You acknowledge that the Installation of the Service may cause temporary disruption to the standard telephone service used in this application.

our Third Party Suppliers for any and all liability arising from the following:

Disruption in the delivery of your telephone service

Cancellation of the Service for any reason

Suspension of the provision of the service to particular Internet Protocol (IP) addresses

Cancellation of, or refusal by our Third Party Supplier to provide services deemed by our Third Party Supplier to be incompatible with the provision of ADSL on the analogue line

11. Interference with the Service

You agree that you will:

Not interfere with normal operation of the service or any facility, or make either unsafe.

Allow any Third Party Supplier or Minopher Network Solutions safe access to the customer premises if required.

Ensure that our Third Party Supplier or Minopher Network Solutions are provided with sufficient and timely access to the customer premises to enable our Third Party Supplier or Minopher Network Solutions to provide the service.

If you do not have control or have access to the premises in with the service is delivered, you must:

Procure for our Third Party Supplier and Minopher Network Solutions all such access to the premises as may be required.

Indemnify our Third Party Supplier and Minopher Network Solutions against any claim by the owner or occupier of the service premises, or any other person, in relation to the entry of those premises.

12. Acceptable Use Policy

You agree not to use your access for illegal purposes and to conduct yourself in a responsible and considerate manner, and acknowledge that cracking, hacking, crashing, spamming, transmission or storage of copyright infringing or any data which would contravene Australian laws relating to the production and distribution of pornographic material or distribution of virus is forbidden, as is unauthorised access to system areas and information on the Minopher Network Solutions network or any systems connected to the Minopher Network Solutions network.

You agree to accept total responsibility for the content of files owned by you and stored on the Minopher Network Solutions network, and also accept total responsibility for any data transferred or caused to be transferred across the Minopher Network Solutions network.

You agree that you will not breach any intellectual property rights, including hosting and/or posting any content which infringes on any copyright, trade mark, trade secret, patent or other property or other intellectual property rights of any third party unless you are the owner of, or have the permission of the owner to post or transmit the content. You agree that you will not send unsolicited bulk commercial e-mail via any method. Any unsolicited bulk commercial email sent through the Service may incur severe penalties including but not limited to service disconnection and/or complaint handling fees.

You acknowledge that we do not edit or control the content and form of any information or data accessed through the Service.

You are responsible for maintaining the secrecy and confidentiality of all access information required by you to access to the Service, and you agree not to disclose this to any other person.

You must notify us immediately if your username and/or password are lost or you think that someone may be using them. You will be responsible and liable for any unauthorized use of the Service.

You agree that Minopher Network Solutions may block TCP/IP ports should we require so for network security or network efficiency.

13. Suspension of Services

Will take effect automatically and immediately upon contravening any payment terms (your account must be kept in advance at all times). Suspension will be implemented by suspending the service as we see fit. You shall remain liable for all charges due throughout the period of suspension. Suspension can be reversed upon all due payment and reactivation payment receipt. Suspension will take effect if you continue to contravene the Acceptable Use Policy (as per section 12).

14. Fair Usage Policy

(Minopher reserves the right to introduce a Fair Usage Policy, including changes to download allowances and/or plan extras, in the future by giving 1-month notice - Notices sent in regard to Fair Usage Policy will be done so in accordance with clause 6.)

15. Technical Support

Our Service includes free technical support for the installation and commissioning of Service. This support is only provided by Telephone and we may not be able to provide on site visits. Such visits if required and can be provided will be charged for at our current rate for such services. Support will only be provided for supported applications and/or supported equipment - as deemed by Minopher support staff in its sole discretion.

16. Minopher Network Solutions IP Address Space

You agree that the IP addresses assigned under this agreement remain the property of Minopher Network Solutions or a third party and that these IP addresses may change from time to time. One permanent IP address is provided with this service. Additional IP addresses may be purchased on a monthly basis for a fee.

17. Governing Law

The agreement will be governed by and construed in accordance with the law of the state of Victoria.

Under Australian law, the Standard form of agreement (SFoA) applies whether or not you read it or sign it. If you and we have expressly agreed to different terms in a particular case, the SFoA still applies, but subject to those terms.

18. Assignment

Minopher Network Solutions may assign any or all of the rights and obligations on its part contained herein. You may not assign any of your rights or obligations hereto.

19. Information

You authorise Minopher Network Solutions to make enquires as to your credit rating at any time and to report any delinquencies and any other information concerning you.

20. Amendment

Minopher Network Solutions may amend this agreement from time to time by written or electronic or fax notice to you. The amendment will take effect unless you notify us in writing of your objection. Any renewal in accordance with clause 4 subsequent to any amendment notice given by us will despite any objection by you, be on the amended terms. This Agreement can only be varied as provided in this clause or by agreement of both parties.