



ADSL Terms of Service Introduction

- A. You wish to access Locall Australis ADSL service as advertised or viewed at www.australis.net ("Service").
- B. Locall Australis agrees to provide the Service to you on the terms and conditions outlined in this Agreement or as varied by notice from time to time and set out at the following Internet address www.australis.net/conditions ("Terms and Conditions").
- C. You acknowledge that your Application for ADSL Broadband services from Locall Australis and the physical activation of those services as detailed in the application, bind you to the Locall Australis Terms and Conditions for ADSL connection.
- D. You acknowledge that you have read and accept the Locall Australis Traffic Management Policy which may be found at the following internet address; www.australis.net/policies

1. Provision of Service

- 1.1 Locall Australis will provide the Service and, if applicable, the Hardware to you in accordance with this Agreement.
- 1.2 If you pay Locall Australis's administration costs, you can change your Service to another ADSL plan.

2. Fees

- 2.1 You must pay Locall Australis the Fees by the Payment Dates.
- 2.2 Locall Australis may vary the Fees. Any variation to the Fees will take effect on the first Payment Date after the date on which Locall Australis gives notice and as set out in www.australis.net/conditions.
- 2.3 If you fail to pay the Fees by the Payment Date (or if your cheque is not accepted or your credit card declines), then, without limiting any other rights that Locall Australis has under this Agreement, including the right to terminate the Agreement, Locall Australis may:
- (1) suspend your Service until it receives payment of the Fees; and
 - (2) charge Interest on the Fees payable.
- 2.4 If Locall Australis suspends your Service, and you wish to be reconnected, you must pay any Reconnection Fee which may be applicable.

3. Hardware

- 3.1 If you paid the Hardware Fee, you own the Hardware.
- 3.2 If you have not paid the Hardware Fee, then you must return the Hardware to Locall Australis within 2 weeks of termination or expiry of this Agreement.

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3.3 If any part of the Hardware is faulty at installation, Locall Australis will dispatch new Hardware to your premises and resume possession of the replaced Hardware. Where Locall Australis determines that the replaced Hardware is not defective, you will be liable for all costs incurred by Locall Australis under this clause.

4. Access to Network

4.1 You are responsible for any access to the Network through your User ID, whether the access was made by you or not.

4.2 In using the Service, you must not;

- (1) damage, interfere or modify the Network or any network connected to the Network;
- (2) give anyone else access to the Network;
- (3) breach any law;
- (4) use Incompatible Products; or
- (5) infringe or interfere with any else's rights, including privacy and intellectual property rights.

4.3 You must:

- (1) comply with the Locall Australis Acceptable Usage Policy;
- (2) comply with all reasonable directions and instructions of Locall Australis in relation to your use of the service including any 'take down' notices brought to your attention by Locall Australis;
- (3) provide all information and assistance as is reasonably required by Locall Australis in order to enable Locall Australis to comply with its obligations with its agreements with third party carriers and suppliers; and
- (4) provide reasonable and safe access to your premises for any maintenance or repair services by Locall Australis or its agents or suppliers.

5. Disconnection from Network Access

5.1 In order for Locall Australis to provide fair access to all of its customers, Locall Australis may automatically disconnect the Service when you:

- (1) breach Locall Australis's Acceptable Usage policy.

5.2 Locall Australis does not guarantee that your Network access will be free from any other disruption but will, in good faith, make reasonable endeavours to allow you continuous access to the Service.

6. Suspend/Alteration of the Service

6.1 Subject to requirements under the Privacy Act 1988, Locall Australis may suspend or alter the Service or release any information, including your personal information, at any time in its sole discretion, with or without notice when:

- (1) there is an emergency;

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- (2) any third party, including without limitation any of Locall Australis's suppliers, carriers or contractors does any act or omission that affects the Service;
- (3) it is reasonably likely that an act or omission by you will impair or adversely effect the quality or operation of the Locall Australis's operations or the Network;
- (4) you are in material default under this Agreement or Locall Australis's Acceptable Usage Policy;
- (5) the Network or any of Locall Australis's facilities need to be repaired, modified or upgraded;
- (6) Locall Australis thinks that suspension or alteration is necessary to prevent or stop any unauthorised access to the Network, unlawful acts or infringement of anyone else's rights;
- (7) directed by the Australian Broadcasting Authority under a 'take down notice'; or

(8) there is any order, judgement, decree, determination or otherwise of any governmental agency that your access to the Service relates to material that is illegal, offensive, objectionable or in breach of a third party's rights.

6.2 You must continue to pay the Fees if Locall Australis suspends your Service.

6.3 Without limitation on any of Locall Australis's other rights, Locall Australis may suspend the Service if you do not pay any Fees by their Payment Date.

7. Your Responsibility

7.1 You are responsible for:

- (1) informing yourself and seeking independent advice about your and Locall Australis's rights and obligations under this Agreement;
- (2) being aware of any changes or variations that Locall Australis may make to the Terms and Conditions of which Locall Australis has notified you as contained in the following website; www.australis.net
- (3) implementing appropriate anti-virus systems;
- (4) all telecommunication expenses incurred by you in relation to the Service;
- (5) screening against any content or material that you find offensive or disturbing; and
- (6) acquiring any training or equipment needed to access the Service.

8. Acknowledgement

8.1 You acknowledge and agree that:

- (1) your access to the Service:
 - (a) will prevent you from using products or services that are incompatible with the Network;
 - (b) may cause disruption to other telecommunications services, including telephone lines; and



- (c) will depend on Network availability (e.g. if the Network is busy);
- (2) Locall Australis's obligation to provide the Service is subject to your meeting the Technical Requirements; and
- (3) Locall Australis may disclose your personal information to its suppliers and contractors for the purpose of providing your Service.

9. Password

9.1 You must:

- (1) protect the confidentiality of your password; and
- (2) not disclose or allow anyone else to use your password.

10. Liability

10.1 You access the Service at your own risk, and without limitation, Locall Australis is not liable to you for any loss, cost, damage, injury or other claims (including consequential damages and loss of profits or loss of revenues) as a result, direct or indirect, of:

- (1) any defect, error, deficiency or discrepancy in the Service including their form, content and timeliness of delivery;
- (2) viruses transmitted through the Network;
- (3) any material or content accessed through the Service, even if the material or content is obscene, offensive or pornographic;
- (4) suspension, disruption or cancellation of the Service; or
- (5) any telecommunications expenses incurred by you in relation to the Service.

11. Warranty

11.1 To the extent that implied terms and can be lawfully excluded, Locall Australis excludes all implied terms from this Agreement.

11.2 In relation to implied terms that cannot lawfully be excluded, Locall Australis limits its liability to:

- (1) providing the Service again; or
- (2) paying the cost of having the Service provided again.

12. Indemnity and Release

12.1 You indemnify Locall Australis for any loss, damage, cost, expense or claim arising from your breach of this Agreement.

12.2 You release Locall Australis from any liability arising from:

- (1) disruption of the Service;
- (2) cancellation of the Service;
- (3) suspension of the Service to a particular IP Address;
- (4) cancellations or refusals to provide Incompatible Products; and

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(5) possible breaches of the Telecommunications Act (Customer Service Guarantee) Standard 2000.

13. Transmission Speed

13.1 You acknowledge that:

- (1) the Transmission Speed is the maximum theoretical speed attainable through the Service at ideal conditions;
- (2) the actual transmission speed may be less than the Transmission Speed because of many factors including without limitation Network congestion and third party carriers; and
- (3) Locall Australis does not warrant that you will be able to obtain Transmission Speed at all times while accessing the Service.

14. Privacy

14.1 Locall Australis will treat your personal information in accordance with its Privacy Policy viewable at: www.australis.net/policy

15. Force Majeure

15.1 Locall Australis is not liable for any delay or failure to perform an obligation (other than to pay money) under this Agreement caused by:

- (1) an act of God;
- (2) war, riot, insurrection, vandalism, terrorism or sabotage;
- (3) strike, lockout, ban, limitation of work or other industrial disturbance;
- (4) power failures, communications failures, viruses, hacker attacks; or
- (5) any law, rule or regulation (the "Event").

15.2 The performance of the Locall Australis's obligations are suspended for the period of delay caused by the Event.

16. Term

16.1 The term of this Agreement is for the Minimum Term or, if renewed under clause 17, the Renewal Term, unless terminated earlier in accordance with clause 18.

17. Renewal

17.1 If, 1 month before the end of the Minimum Term or Renewal Term (whichever is applicable), you do not notify Locall Australis that you wish to stop the Service, the Agreement continues for the Renewal Term.

17.2 If you notify Locall Australis within one month before the end of the Minimum Term or Renewal Term (whichever is applicable) that you do not wish to continue the Service, the Agreement ends at the end of the Minimum Term or Renewal Term (as the case may be).



18. Termination

18.1 Locall Australis may terminate this Agreement at any time after 1 month notice.

18.2 Locall Australis may terminate this Agreement if you have breached this Agreement and have not remedied that breach within 2 weeks notice from Locall Australis.

18.3 If:

- (1) Locall Australis terminates this Agreement under clause 18.2; or
- (2) you terminate this Agreement before the end of the Minimum Term or Renewal Term (as the case may be) you must pay Locall Australis the Early Termination Fee and all Fees payable for the balance of the Minimum Term or Renewal Term within 2 weeks of this Agreement terminating.

19. Severability

19.1 If anything in this Agreement is unenforceable, illegal or void then it is severed and the rest of this Agreement remains in force.

20. Entire understanding

20.1 This Agreement is the entire agreement and understanding between the parties on everything connected with the subject matter of this Agreement.

21. Assignment

21.1 You must not assign any of your rights or obligations under this Agreement.

21.2 Locall Australis may assign its rights and obligations under this Agreement at any time after 1 month notice.

22. Variation

22.1 Locall Australis may provide notice of its wish to vary the Agreement ("Locall Australis Variations")

22.2 If you do not agree to Locall Australis variations, you must notify Locall Australis within 1 week of Locall Australis providing notice. If you do not notify Locall Australis, you are deemed to have accepted the Locall Australis variations.

22.3 Notwithstanding your notice that you do not accept Locall Australis variations, Locall Australis variations take effect during the next Renewal Term after the date of Locall Australis's notice under clause 22.1.

22.4 Except as provided under this clause or clause 2.2, the Agreement may only be varied by agreement in writing of the parties.

23. Notice



23.1 Locall Australis must provide notice to you at the following website
www.australis.net

23.2 You must provide notice to Locall Australis at 244 Noalimba Ave Kentucky NSW
2354

24. Governing Law

24.1 This Agreement is governed by the law of New South Wales and both parties agree to submit to the jurisdiction of New South Wales.

25. Definitions

25.1 In this Agreement:

- (1) Agreement means this document, including any schedule or annexure to it;
- (2) Download Limit means the download limit for each Session as specified in the Service Schedule;
- (3) Early Termination Fee means the fee payable by you to Locall Australis as specified in the Service Schedule;
- (4) Fees means the fees payable for the Service as specified in the Service Schedule;
- (5) Hardware means the hardware that Locall Australis will provide to you as specified in the Service Schedule.
- (6) Idle Time Limit means the idle time limit for each time that Network access is idle as specified in the Service Schedule;
- (7) Incompatible Products means products or services that prevent or hinder Locall Australis's ability to provide the Service to you;
- (8) Interest means the interest payable on any late Fees calculated at the rate of 2% above the cash rate set by the Reserve Bank and published in the Australian Financial review on the Payment Date;
- (9) Payment Dates means the dates on which the Fee is due as specified in the Service Schedule;
- (10) Minimum Term means the period specified in the Service Schedule;
- (11) Network means the telecommunications systems that is accessed through the Service including all links, cables, radio, microwave and other transmission media and equipment, switches, software and related items owned and operated by Locall Australis, its wholesalers, Telstra or any other carrier or supplier of telecommunications services to Locall Australis;
- (12) Reconnection Fee means the fee payable to reconnect to the Service as specified in the Service Schedule.
- (13) Renewal Term means the period for which the parties can renew the Agreement as specified in the Service Schedule;
- (14) Session means each time that you access the Network;

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(15) Technical Requirements means the technical specifications that you must meet in order to access the Service as specified in the Service Schedule;

(16) Acceptable Usage Policy means the Locall Australis Acceptable Usage Policy at the following web address and as amended from time to time

www.australis.net/policy

(17) Transmission Speed means the maximum transmission speed available under the Service as prescribed in the Service Schedule;

(18) User ID means the logon identification provided by Locall Australis for access to the Network; and

(19) Your Email means the email address that Locall Australis provide you as part of the Service.