



**STANDARD FORM OF AGREEMENT
ACTIV8ME SATELLITE BROADBAND
(IPSTAR SATELLITE SERVICE)**

Australian Private Networks Pty Ltd trading as Activ8me ABN 27 103 009 552
Building 2, Level 2, 13A Albert Street Preston Victoria 3072
Telephone: 1300 760 219
Website: www.activ8me.net.au

Activ8me Satellite Broadband Terms and Conditions – July 2014 V5.2



Terms and Conditions

1. Appointment

You have requested Us to provide the Satellite Service to You in accordance with this Agreement.

2. Term

If you are an existing Activ8me customer, this Agreement commences after expiry of Your HiBIS or Broadband Connect or Australian Broadband Guarantee Program service.

If you are transferring to Activ8me or re-connecting through Change of Ownership or are connecting as a commercial customer, this Agreement commences from the date of connection to the Activ8me network.

- This Agreement continues until either cancelled by You or terminated by Us in accordance with Clause 7.

3. The Satellite Service

- We agree to provide the Satellite Service to You during the Term.
- The Satellite Service remains Your property at all times. The details of Our Service Plans will vary from time to time, and are available via our website www.activ8me.net.au
- You may vary the Satellite Services at no charge provided that the varied services fall within the same technology platform. Changes will take effect from the anniversary date.
- You agree that We may, at any time, in our absolute discretion vary, suspend or terminate the Satellite Service or any part of the Satellite Service as a result of a security breach by You or a third party, in which case any liability that arises out of such action is expressly excluded.
- You acknowledge that We do not and cannot in any way supervise, edit or control the content and form of any information or data accessed through the Satellite Service and We shall not be held responsible in any way for any content or information accessed via the Satellite Service. We expressly disclaim all and any liability arising on account of Your access to any material on the Internet that You find offensive, upsetting, defamatory or personally offensive. You agree to use the Satellite Service at Your own risk and in accordance with Our Acceptable Use Policy.
- You agree to grant access to Us or our duly authorised representative at all reasonable times to come onto the Location for the purposes of inspecting and repairing the Satellite Service.

4. The Equipment

- You are authorised to use the Equipment to receive the Satellite Service
- Ownership of the Equipment (and any other devices installed under this clause) resides with You.
- We may offer equipment warranty for an agreed term. While You are within the term of equipment warranty, We shall undertake the Servicing of Your Equipment at no further cost to You while You are meeting your regular plan payments by the due date, unless the fault is attributable by any act or omission by You.
- If You continue to use the Satellite Service after the end of the term of equipment warranty, You shall be responsible for the costs of Servicing the Equipment.

- We will offer an extended equipment warranty for the prescribed fee in addition to Your other monthly commitments to Us. If You choose this option We shall undertake the Servicing of Your Equipment at no further cost to You while You are making the extended warranty payments unless the fault is attributable by any act or omission by You.
- During the Term You grant access to Us or our duly authorised representative at all times to come onto the Location for the purposes of inspecting and repairing the Equipment.

5. Interruption to Satellite Service or faulty Equipment

- You acknowledge that the Satellite Service may not operate with full functionality at all times and you acknowledge that We cannot guarantee or represent the continued availability of the Satellite Service. We may at Our election, cease providing the Satellite Services to you in the event you do not pay Us the fees and charges required under this Agreement by the due dates.
- In relation to any loss suffered by You as a result of the performance or non-performance of the Satellite Service or any repairs or remedial work required to the Equipment, our liability is limited to the general indemnity provided in Clause 14 of this Agreement or to replacing the Satellite Service.
- During the Term, You must keep the Equipment in the good condition and repair as at the date of installation, subject to fair wear and tear.
- Where You either are within the term of equipment warranty or have elected to take extended warranty, should the Equipment experience technical or mechanical faults, We shall repair or replace the Equipment at our own cost. If the fault is attributable by any act or omission by You, We shall be entitled to seek costs on account of any necessary repairs.

6. Satellite Service standards

- We will provide the Satellite Service with either:
 - Average data download and upload Data Speeds of at least 60 per cent of the Satellite Service's nominated peak speeds or,
 - We will supply the Satellite Service at the minimum or average data speed specified at least 75 per cent of the time. We commit to the Satellite Service being available at least 99 per cent of the time, averaged of a quarterly period.
- In the event of a Satellite Service outage or fault for which We are responsible, We commit to restoration of the Satellite Service within 12 days of notification. Where the restoration is likely to exceed 12 days, We may, at Our option, provide You will alternative services.

7. Relocation of Satellite Service and Equipment

For the avoidance of doubt, We are under no obligation to relocate the Equipment to an alternate Location in the event that You change address at any time during the Term. If We do agree to relocate the Equipment, we may charge You a relocation fee which will be advised to You at the time of your request.

8. Early Termination

- You may terminate this Agreement by giving to Us 30 days written notice. If you elect to terminate under this clause, We may require You to pay the Early Termination Payment set out in Your Application.
- We may terminate this Agreement on 7 days notice if You fail to make any payment after a demand by Us to You to do so.

9. Intellectual Property

You agree that there is no assignment of Intellectual Property rights in the Satellite Service, Equipment, advertising, promotional materials, communications systems, software, database, and knowhow which are made available pursuant to this Agreement.

10.Support

We will provide helpdesk and ongoing support to You by providing reasonable technical and operational advice and assistance when requested, regular communications concerning matters of relevance to the Satellite Service, during the hours of 8am to 9pm Monday to Friday and 9am to 6pm Saturday and Sunday at our location, via telephone 1300 760 219 and by e-mail to support@activ8me.net.au. We will provide you with a free-of-charge 24/7 fault reporting.

11.Pay Fees & Invoices

- You will be required to pay the Fees for Your elected satellite broadband plan by Direct Debit to a bank account or credit card on the due dates. We will collect payment for your monthly invoice 10 business days after the invoice date.
- For data usage in excess of the limitation set out in Your Application, We shall charge the applicable Service Usage Charge. We will provide a means for You to check your usage daily online.
- A Tax Invoice for all payments direct debited by Us pursuant to this clause shall be made available to You on the Website under 'My Account' via Your username and password.
- Any additional fees due to bank dishonour or late payment fee(s) will be charged automatically to Your bank account.
- If you request a paper based invoice to be posted, we will charge you a \$2.00 administration charge.

12.Personal Information and Privacy Act

12.1 General

You warrant that all information you have provided or will provide to us under this agreement or in connection with the Satellite Service will comply with any laws relating to the collection and disclosure of personal information under the Privacy Laws and You consent to Us using Your Personal Information in accordance with our Privacy Policy at www.activ8me.net.au.

- a) We will take all reasonable steps to protect your Personal Information.
- b) We will provide you with access to your Personal Information in accordance with the Privacy Laws and our Privacy Policy for a fee. If any of your Personal Information is inaccurate, you may request that it be corrected.
- c) You acknowledge that any calls made to an Activ8me customer call centre may be recorded for quality assurance purposes.

12.2 Purpose of collecting Personal Information

Activ8me, its agents and suppliers may collect, use and disclose Personal Information provided by you for purposes relating to the supply of the Satellite Service, or for purposes that would be reasonably expected as part of the supply of the Satellite Service (including for the purpose of keeping you informed about features of our services or the services of our supplier, conducting research in order to provide a better service to you, for the purposes of internal administration and for promotional and marketing purposes).

12.3 Disclosure

We may receive and disclose Personal Information about you and information relating to your Satellite Service (including any listed or unlisted telephone number, IP address, address and account history) to or from:

- a) third parties such as our suppliers for the purpose of supplying a Satellite Service to you;
- b) credit providers or credit reporting agencies for purposes permitted under the Privacy Laws (including obtaining a consumer or commercial credit report about your creditworthiness, credit history, credit standing and credit capacity and/or to allow the credit reporting agency to create or maintain a credit information file containing information about you which may include the fact that payments are overdue by more than 60 days or that you have committed a serious credit infringement);

- c) law enforcement agencies to assist them in the prevention of criminal activity; d) our service and content providers, dealers and agents, or any company within the Activ8me group for purposes that are related to providing you with a Satellite Service which would be reasonably expected; e) to another supplier where the provision of the Satellite Service is transferred to that supplier under this agreement; f) other persons where a disclosure is permitted by the Privacy Laws or other laws.

12.4 Promotions

If you have elected to receive promotional offers via electronic form, you agree to receive promotional offers and information via electronic messaging (such as SMS, MMS or email) from Activ8me or Activ8me's suppliers, unless you withdraw this consent.

13. Indemnity to Us

You indemnify Us against any liability or losses (both direct and consequential) sustained by Us as a result of You breaching this Agreement or any relevant laws applicable to You or the Satellite Service. This indemnity is a continuing obligation and survives termination of this or any subsequent Agreement.

14. Liability Limitation

To the extent permitted by law, Our liability to You under this Agreement is limited to the costs of re-supplying the Satellite Service or replacing the Equipment. We are not liable to You for any direct or consequential loss or damage of any nature suffered by You arising from Your access to and use of the Satellite Service, even if We are aware or has been advised of the possibility of a direct or consequential loss or damage flowing from, but not limited to, any errors, faults, omissions or other inaccuracies of the Satellite Service. All warranties and conditions implied by law are hereby expressly included.

15. Assignment

- You may not assign or purport to assign any of Your rights and obligations under this Agreement without Our prior written consent.
- We can assign Our rights under this Agreement.

16. Subcontracting

- We may at our sole election subcontract Our obligations under this Agreement without Your consent.
- You must not re-sell the Satellite Service.

17. Governing Law and Jurisdiction

This Agreement will be governed by and be construed in accordance with the laws of Victoria, Australia, and the parties agree to submit to the non-exclusive jurisdiction of the courts of that jurisdiction.

18. Waiver

Failure or omission of a party at any time to enforce or require the strict observance of or compliance with any provision of this Agreement or any exercise or discretion (other than the giving of consent on a request by Us to assign Our rights) under this Agreement will not operate as a waiver of such rights of a party, whether express or implied, arising under this Agreement.

19. Relationship

Nothing in this Agreement or any other express or implied term of any document, nor conduct or trade usage will constitute any relationship of trust, partnership, joint venture or any relationship other than that of debtor and creditor between Us or You.

20. GST

The parties agree that the amount of any consideration payable under this Agreement is inclusive of GST (unless otherwise stated).

21. Blanks and Errors

You authorise Us to complete any blank spaces and to rectify any manifest errors in data input fields within this Agreement provided We notify You.

22. Facsimile or Electronic Versions

The Parties agree that a validly executed facsimile or electronic copy of this Agreement or part thereof is accepted as a valid original.

23. Amendments

This Agreement is subject to change by Us from time to time by not less than 30 days' notice in writing or by email to You and by display on the Website. Your continued use of the Satellite Service acknowledges the binding effect of such notice.

24. Code Compliance

The terms of this Agreement shall be read subject to provisions of the Communications Alliance industry code C620 to the extent to which that codes applies to this Agreement.

25. Complaints

You shall direct all complaints with the Satellite Service to Us via the designated number on the Website, which shall be handled in accordance with the Telecommunications, Industry Ombudsman complaint handling procedures.



26. Definitions

Acceptable Use Policy means the policy published by Us from time to time and which can be accessed via the Website. **Activ8me** means Australian Private Networks Pty Ltd (ACN 103 009 552) and its Related Bodies Corporate and any successor in title.

Agreement means this agreement (including the Application) setting out the terms governing Your access to the Satellite Service as amended by Us from time to time

Application means the forms provided to You.

Australian Broadband Guarantee or Australian Broadband Guarantee Program means the Australian Government's funding Satellite described in the Program Guidelines available at www.dbcde.gov.au/abg

Data Speed has the definition set out in the Australian Guarantee Satellite Guidelines

Equipment means the satellite dish, satellite modem antenna, physical equipment delivered to or installed at the customer's Location (including cabling) necessary for You to participate in the Satellite Service.

GST has the meaning given in A New Tax System (Goods and Satellite Service Tax) Act 1999 (as amended);

Intellectual Property includes copyrights, patents, trademarks, processes, confidential know how, registered designs, or other like rights of which the Satellite Service Provider is the author, proprietor, owner or licensee;

Location means the location where the Equipment is installed.

Personal Information means the information You provided to us when applying for the Satellite Service and other information You provide to Us from time to time.

Privacy Policy means Activ8me's privacy policy as amended or replaced from time to time. The most recent version of the privacy policy is available at on the website.

Satellite Service(s) means an Internet access service.

Service Usage Charge means the excess call charges and other Satellite Service provider expenses set out in the Schedule.

Servicing means any servicing of Equipment including call out fees (unless the damage could have reasonably been prevented by You) other than damage caused by your misuse of the Equipment.

We or Us or Our means Australian Private Networks Pty Ltd (ACN 103 009 552) and its Related Bodies Corporate and any successor in title.

Website means the Web Site operated by the Us in connection with the Satellite Service.

You means the customer who fills out the application for the Satellite Service (and Your and Yours is to be construed accordingly).