



EDirect Pty Ltd ABN 99 108  
532 083 Trading As VIPtel Mobile

# **STANDARD FORM OF AGREEMENT**

**Important Customer Information: Your Rights and  
Obligations**

## **Standard Form of Agreement (version 1)**

This document: Is the Core Terms of a standard form of agreement (“SFOA”) under section 479 Telecommunications Act 1997; Applies to contracts with Customers made on and after 25th March 2010;

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## **VIPtel PRIVACY POLICY STATEMENT**

This VIPtel Privacy Policy Statement sets out the adherence of VIPtel's obligations as per the Telecommunication Act 1997 and Privacy Act 1988 (inclusive of NPP Principles). It includes information on how VIPtel collects, Uses, discloses and keeps secure, individual's Personal Information. It also covers how VIPtel makes the Personal Information it holds available for access to and correction by the individual.

### **COLLECTION**

VIPtel will only collect Personal Information where the information is necessary for VIPtel to perform one or more of its functions or activities.

VIPtel collects Personal Information primarily to supply customers with the products and Services ordered from it and its related companies.

VIPtel collects personal information in a number of ways, including:

- a. directly from You, when You provide information by phone, email or in documents such as an application form;
- b. from third parties such as our related companies, credit reporting agencies or Your representatives;
- c. from publicly available sources of information;

VIPtel also collects and Uses Personal Information for secondary purposes including:

- d. Billing and account management
- e. Business planning and product development
- f. To provide individuals with information about promotions, as Well as the products and Services of other VIPtel companies and other organizations.

VIPtel will notify individuals of the matters listed below before collecting any Personal Information:

- g. The main reason that We are collecting Personal Information
- h. Other related Uses or Disclosures that We may make of the Personal Information
- i. Our identity and how individuals can contact Us
- j. That individuals can access the Personal Information that VIPtel holds about them
- k. That individuals should contact our customer Service department if they wish to access or correct or alter Personal Information collected by VIPtel
- l. The organizations to which We disclose Personal Information. Where it is not practicable for VIPtel to notify individuals of all of the Collection Information before the collection of the Personal Information, VIPtel will ensure that individuals are notified of the Collection Information as soon as possible after the collection.

### **USE**

VIPtel will obtain an individual's consent for Use of non-sensitive Personal Information for Secondary Purposes at the time of collection.

VIPtel will not Use Personal Information without taking reasonable steps to ensure that the information is accurate, complete and up to date.

VIPtel will destroy personal information when it is no longer in Use.

### **DISCLOSURE**

VIPtel may Disclose Personal Information to related or unrelated third parties if consent has been obtained from the individual. This will include obtaining the individual's consent for Disclosures made under the credit reporting requirements of the Privacy Act.

VIPtel may Disclose Personal Information to unrelated third parties to enable outsourcing of functions (such as billing) VIPtel will take reasonable steps to ensure that its contracts with third parties include requirements for third parties to comply with the Use and Disclosure requirements of the Privacy Act. VIPtel may Disclose Personal Information to law enforcement agencies, government agencies, courts or external advisers where permitted or required by law.

If a Disclosure is not for a Primary Purpose; is not for a related Secondary Purpose; or upfront consent has not been obtained, VIPtel will not Disclose Personal Information otherwise than in accordance with the exceptions set out above.

VIPtel will review, on a regular and ongoing basis, its collection and storage practices to ascertain how improvements to accuracy can be achieved.

## **INFORMATION SECURITY**

VIPtel requires employees and contractors to perform their duties in a manner that is consistent with VIPtel's legal responsibilities in relation to privacy.

VIPtel will take all reasonable steps to ensure that paper and electronic records containing Personal Information are stored in facilities that are only accessible by people within VIPtel who have a genuine "need to know" as Well as "right to know". VIPtel will review, on a regular and ongoing basis, its information security practices to ascertain how ongoing responsibilities can be achieved and maintained.

VIPtel understands that You accept the inherent security implications of providing information over the internet and will not hold VIPtel responsible for any breach of security or the disclosure of personal information unless We have been negligent.

## **OPENNESS**

VIPtel's Website will contain a prominently displayed privacy statement. To contact Us, please refer to the details mentioned at the end of this booklet.

## **ACCESS AND CORRECTION**

VIPtel will allow its records containing Personal Information to be accessed by the individual concerned in accordance with the Privacy Act.

VIPtel will correct its records containing Personal Information as soon as practically possible, at the request of the individual concerned in accordance with the Privacy Act.

Individuals wishing to lodge a request to access and/or correct their Personal Information should do so by contacting VIPtel in writing at the contact details listed below.

VIPtel reserves the right to charge a fee for searching for and providing access to Your information.

## **ANONYMOUS TRANSACTIONS**

VIPtel will allow its customers to transact with it anonymously wherever that is reasonable and practicable.

## **TRANSFERRING PERSONAL INFORMATION OVERSEAS**

If Personal Information must be sent by VIPtel overseas for sound business reasons; VIPtel will require the overseas organization receiving the information to provide a binding undertaking that it will handle that information in accordance with the National Privacy Principles, preferably as part of the Services contract.

## **VIPtel FAIR GO POLICY**

Our Fair Go Policy is as follows and You must comply with it as a term of Your Service agreement: VIPtel mobile telephone SIM and Services are designed and priced for Use with a handset by individuals as a conventional mobile telephone Service. The following Usages of SIM or Services are not permitted:

- Use of the SIM except in a conventional GSM mobile handset
- Use of the SIM or Service as part of an automated calling, call routing or messaging system
- Use of the SIM or Service as part of a wholesale calling or messaging Service
- reselling any part of the Service
- Use of the SIM or Service to provide a carriage Service (as defined by the Telecommunications Act 1997) to anyone else
- Use of the SIM or Service to re route or terminate telephone calls or to re-route or deliver
- Use of the SIM or Service as part of a wholesale calling or messaging Service
- reselling any part of the Service
- Use of the SIM or Service to provide a carriage Service (as defined by the Telecommunications Act 1997) to anyone else
- Use of the SIM or Service to re-route or terminate telephone calls or to re-route or deliver messages – That does not originate from the handset containing the SIM
- Any other Use similar to the above –but to avoid any doubt, these restrictions do not preclude any Use that constitutes Use with a handset by individuals as a conventional mobile telephone Service.

# **SUMMARY OF STANDARD FORM OF AGREEMENT FOR THE VIPtel TELECOMMUNICATIONS SERVICES**

## **Important Customer Information: Your Rights and Obligations**

### **TELECOMMUNICATIONS LEGISLATION**

Under Telecommunications Legislation and specific Industry codes, We may enter in to a contract with our customers by way of a Standard Form of Agreement ('SFOA'). The SFOA contains the terms and conditions on which We provide products and services to our consumer customers. This is a summary of the SFOA and is provided for Your information only. This summary is not legally binding and it does not override or change the SFOA. The current copy of our complete SFOA can be found at <http://www.viptel.com.au>.

The terms and conditions of our SFOA only apply to our consumer customers. You are a Consumer Customer if Your service is ordinarily and primarily used for personal, domestic or house hold purposes.

### **VARIATIONS**

In most situations, the terms of the SFOA can be changed at any time. However, subject to some exceptions, if a change is not required by law or necessary for security or technical reasons and has more than a minor detrimental impact on You, We will tell You directly at least 21 days beforehand and if You have a fixed length contract with Us, You may also have cancellation rights. The most up-to-date version of the SFOA is always available from the website: [www.viptel.com.au](http://www.viptel.com.au)

### **SERVICES**

VIPTel intends to supply a range of telecommunications services, including basic fixed line telephone services, mobile telephone services and internet services. The Service is not free from faults or interruptions, is subject to our mobile coverage areas, and may only be used with a compatible mobile phone or other device. A detailed explanation of the services is provided in the specific sections of the SFOA.

### **BECOMING OUR CUSTOMER**

We will provide a service to You if You are eligible for a service available in Your area and You meet our credit management policy requirement and comply with the terms and conditions in the SFOA.

Due to the nature of telecommunications systems, We cannot promise that our services will be continuous or fault free.

### **REPAIRS AND MAINTENANCE**

We maintain and repair services for as long as We supply the services to You. If You would like to report a fault or to complain, please call Us on 1300 785 847 between 9am-8pm AEST (Monday to Friday) and 9am-6pm AEST (Saturday to Sunday). To view VIPTel Complaints Policy, please log on to [www.viptel.com.au/policies](http://www.viptel.com.au/policies).

It is Your responsibility to repair and maintain Your own equipment. You must take care of our equipment located on Your premises as charges will apply if the equipment is lost or damaged, except for fair Wear and Tear.

If You ask Us to come to Your premises to fix a fault, which turns out to be caused by Your equipment, We may charge You a call out and service fee.

### **CUSTOMER SERVICE GUARANTEE**

Where You organize a service appointment, arrange a new connection or have a fault fixed on Your fixed line telephone service specific performance standards may apply and You may be entitled to payment if We fail to comply with the legislated customer service guarantee standard.

### **CUSTOMER'S OBLIGATION**

You must pay Us all the Charges (and taxes) incurred by using the Service via Your SIM card, even if those Charges are incurred by someone else (with or without Your knowledge and/or consent). You must

not use the Service (and must not allow any other person to use the Service) for an improper or illegal purpose, or to send material which is indecent, defamatory, abusive, unsolicited and commercial in nature, illegal or deceptive. You must also comply with our Acceptable Usage Policy where applicable. This can be viewed at [www.viptel.com.au/policies](http://www.viptel.com.au/policies). You must protect Your SIM card (which remains our property at all times) and notify Us immediately if it is lost or stolen. You must not resell the Service. In some circumstances We may monitor usage of Your services for excessive or unusual usage patterns, but We do not promise to do so. We may cancel or suspend Your service, without notice, for excessive or unusual usage and You will need to pay any applicable early termination fees if Your services are cancelled. If You use Your own equipment for accessing Our services, You must only use equipment approved by the Australian Communications and Media Authority.

## **CHARGES AND PAYMENT FOR SERVICES**

Your mobile plan fee and included call credits will be applied pro rata for the first month of connection, based on the number of days from the date of connection to the end of the monthly billing cycle. We will send You a bill at regular intervals but may send You a bill at any time. Unless specifically stated, all charges are net of all discounts.

VIPTel may offer rebates or call credits in conjunction with specific products or promotions offered to certain customers. The value of the rebate or call credits will be determined in accordance with standard criteria and provided as part of the agreement of sale for the program plan.

VIPTel will bill You in advance for connection, service fees (where applicable), periodic charges and in arrears for usage charges. Methods of payment include direct debit from Your nominated bank account or automatic debit of Your nominated credit card.

If You do not pay the bill by its payment due date as indicated on the bill, We can:

- Charge You an administrative fee.
- If You pay by way of direct debit from Your account/Credit card and there are insufficient funds in that account, charge You a fee. And will continuously try to debit Your account/Credit card on subsequent days.
- Suspend or cancel Your service until You pay the bill, provided We comply with our rights to cancel or suspend Your service as set out in Our SFOA . In these circumstances You will have to pay a reconnection fee if We agree to reconnect Your services.

Charges arising from transactions that have occurred prior to the period covered in any specific billing period will be due and payable upon presentation of invoice. If in any product a standard rebate or credit is given and payment is made after the due date, the rebate or credit will be forfeited.

VIPTel's records are sufficient evidence of the amount payable unless shown to be incorrect. Current charges for plans/ services and inclusions/ exclusions are available on request by contacting us or can be viewed at [www.viptel.com.au/plans](http://www.viptel.com.au/plans)

## **SUSPENSION OR TERMINATION OF SERVICES**

Either party may terminate the agreement by providing not less than 30 days notice. You may also cancel the Service any time without liability if VIPTel breaches a material term of the SFOA and fails to remedy that breach. If You acquire the Service via door-to-door sales or telemarketing, You may also cancel the Service prior to the expiry of any applicable cooling-off period. We may ask You to put Your request in writing. If You cancel a service before We have provided it to You, We may charge any reasonable costs We incurred in preparing to provide the service to You.

Service plans may have a minimum term and You may be charged an early cancellation fees if You terminate the service.

VIPTel reserves the right to suspend or terminate the provision of Service to You, where charges owing to Us or any amount owing remain outstanding after 30 days, unless VIPTel has received written notice from You of a bona fide dispute in relation to those charges. In the event that Your Service is suspended, You may be charged a reconnection fee.

We may suspend or cancel a service without notice to You in a number of circumstances where You are in material breach of our SFOA. For example where We reasonably believe You are using our services for fraud or You do not pay Your bill on time or You exceed Your soft credit limit. We may also suspend or

cancel Your service where it is necessary to restore or maintain our network or the network of our suppliers, there is an emergency, the law or a regulator requires Us to do so, You leave Your premises, or You become bankrupt or insolvent. The amount of warning, if any, We give You depends on the circumstances. If a service is cancelled or suspended, You are still required to pay for relevant charges incurred up to the date of the cancellation or suspension. We may also charge you an early termination fee if you agreed to acquire the service for a fixed length of the time and Your service is cancelled before the end of the fixed term.

### **LIMITATION OF LIABILITY**

As Your service is provided to You for the primary purpose of personal Use, We do not accept liability for losses that result from the Use of Your service in connection with the conduct of a business. We are liable to You for breach of contract or negligence. However, We will accept that liability if it cannot be excluded under any legislation. We limit our liability to resupplying, repairing or replacing the relevant goods or services, or payment of the cost of resupply, repair or replacement, where it is fair and reasonable to do so. We are not liable for any loss to the extent that it is caused by You, results from Your failure to take reasonable steps to avoid or minimize Your loss, or caused by Us failing to comply with our obligations due to events outside our reasonable control, such as a failure in equipment that is not owned or operated by Us, an industrial strike or a natural disaster. You are liable to Us for breach of contract or negligence under the principles applied by the courts but are not liable to Us for any loss to the extent that it is caused by Us.

### **ACCESSING YOUR PREMISES**

We may need access to Your premises from time to time to install equipment for a service, inspection, test, and repair or replace equipment and recover Our equipment after Your service is cancelled. In these circumstances You must provide Us with safe access and if You do not own premises, You must get the owners' permission for Us to access the premises.

### **SECURITY**

We may require You to provide some form of security, for example a security deposit or pay some or all of the charges for Your service in advance if We have reasonable concerns about Your credit worthiness. If You fail to provide the security requested. We can refuse to provide new services or in the case of existing services, We can restrict, suspend or cancel the service in some circumstances.

### **YOUR PERSONAL INFORMATION AND CREDIT REPORTING**

VIPTel and/or our agents may collect personal information about You (**Your Personal Information**) for the primary purpose of providing You the Service. If You do not provide Personal Information to Us, We will not be able to provide You the service. We may use Your Personal Information for purposes that are related to providing You the Service and which You would reasonably expect Us to use that information for (the **Purpose**).

If You request in writing, We will give You access to Your Personal Information and correct Your Personal Information that is inaccurate or incomplete.

We may receive and disclose Your Personal Information to and from: (i) credit providers or credit reporting agencies for the purposes permitted under the Privacy Act; (ii) law enforcement agencies to assist in prevention of crime; or (iii) our service/content providers, dealers/agents and related companies for the Purpose. We may also disclose Your Personal Information to other third parties if required by law, if disclosure is permitted under the Privacy Act or other legislation, or the third party agrees to keep it confidential. Our privacy policy sets out information about how We collect, Use and disclose Your information which can be viewed at [www.viptel.com.au/policies](http://www.viptel.com.au/policies)

### **ACCESSING SUMMARY, SFOA AND POLICIES**

An up-to-date copy of this Summary, detailed SFOA and VIPTel Customer policies can be accessed via our Website [www.viptel.com.au/policies](http://www.viptel.com.au/policies) or by contacting Customer Service. If You do not understand this Agreement or for further queries please call: Customer Service on 1300 785 847; or contact us through our website.

## VIPTel SFOA GENERAL TERMS AND CONDITIONS

### 1. ABOUT THESE TERMS AND CONDITIONS

1.1 Under the telecommunications Act 1997, EDirect Pty Ltd ABN 99 108 532 083 Trading As VIPTel Mobile ('We', 'Us', 'Our' etc.) may contract with 'You', our customer, in accordance with standard terms and conditions of agreement (SFOA). The terms and conditions constituting VIPTel's SFOA are set out below. When You acquire a Service from VIPTel, these terms and conditions will apply to You .

#### 1.2 The VIPTel Mobile SFOA is divided into the following sections:

(a) General Terms & Conditions.

(b) Specific Service Terms & Conditions which include the general features, types of charges, provisioning and maintenance which apply to a specific Service.

1.3 To understand Your rights and obligations You need to Use the general terms and conditions, together with the specific Service terms and Conditions which relate to the Service which You acquire from Us.

1.4 To the extent that there is any inconsistency with the General Terms & Conditions and Specific Service Terms & Conditions, the Specific Service Terms & Conditions apply.

1.5 When You sign up for a specific Service plan with Us, there will be certain terms and conditions relating to the specific Service plan including details of any contract period and which can be found on our Website [www.viptel.com.au/plans](http://www.viptel.com.au/plans). You will also have to agree to these terms and conditions:

(a) Verbally if You sign up to a particular Service over the telephone, or

(b) On the VIPTel Website

before We agree to provide You with that specific Service. Your contract with Us will also include the specific Service plan terms and conditions.

#### 1.6 MEANING OF WORDS

**Acceptable Use Policy** means VIPTel's acceptable use policy as may be amended from time to time available at [www.viptel.com.au](http://www.viptel.com.au)

**Agreement** means the: (a) these terms and conditions, as amended by the parties from time to time; and (b) the Service Specifications.

**Business Day** means a day on which banks are open for business in Melbourne, Victoria, excluding a Saturday, Sunday or public holiday.

**Charge** means a charge specified in the SFOA or for any Service provided by Us to You

**Consumer** means a person who ordinarily acquires services for the primary purpose of Using the services for personal, domestic or household purpose.

**Carriage Service Provider** has the meaning given to it in section 7 of the *Telecommunications Act 1997* (Cth);

**Carrier** has the meaning given to it in section 7 of the *Telecommunications Act 1997* (Cth);

**Confidential Information** means any information relating to a party's business or affairs and includes, without limitation, any:

(a) trade secrets, know-how, scientific and technical information; (b) product, customer, marketing or pricing information; (c) information in relation to this Agreement; and (d) any other information which a party notifies to the other is confidential, which a party has disclosed (or will disclose) to the other;

**Equipment** means a 'facility' under the *Telecommunications Act 1997* and includes any mobile, line, tower, mast, antenna, tunnel, hole, pit or pole Used in connection with a Service.

**Governmental Agency** means any government or any governmental, semi-governmental, administrative, fiscal or judicial body, department, commission, authority, tribunal, government minister, officer, agent or entity including the Australian Communications and Media Authority;

**GST** means the goods and services tax prescribed under the GST Act or any replacement or similar tax;

**GST Act** means *A New Tax System (Goods and Services) Act 1999* (Cth);

**Indirect Loss** means indirect loss, damage cost or expense, and includes without limitation and whether caused directly or indirectly, loss or corruption of data, or loss of contract, opportunity, continuity of business, or profit;

**Law** means: (a) those principles of law established by decisions of courts; (b) statutes, regulations, standards or by-laws of the Commonwealth, State law or a Governmental Agency; and (c) binding requirements and mandatory approvals (including any conditions) of the Commonwealth, State law or a Governmental Agency (including the Australian Communications and Media Authority);

**Monthly Fee** means: (a) up to and including the Term Period, the recurring monthly price or relevant tariff specified in the Reference Schedule; and  
(b) after the Minimum Period, VIPtel's then current published rates for the Services or as advised to the Customer by VIPtel from time to time;

**Network** means a telecommunications network as defined under *Telecommunications Act 1997*.

**Personal Information** means information or an opinion whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion;

**Premises** means any land, building, structure, vehicle or vessel whether owned, leased or occupied by You, containing Equipment or a Service, or to which a Service is supplied.

**Privacy Act** means the *Privacy Act 1988*, as amended from time to time.

**Security Bond** means any security provided or to be provided by You to Us under a Service Contract, for example a bank guarantee, a letter of security over a bank deposit.

**Service** means any service that We supply to You and includes any goods or Equipment provided in connection with a service.

**Suspend** means: (a) in relation to a telephone service – to bar all outgoing and/or incoming calls, except for access to Emergency Services (if applicable); and (b) in relation to any other Service – to deny or restrict access to the Service or part of it.

**Term Period** means the period from the date of acceptance by the Company of the Customer's request for the Service until such time as the Agreement is terminated by either party giving to the other not less than thirty (30) days prior written notice of its intention so to terminate. Unless otherwise agreed the minimum term for agreements is 24 months.

**Unacceptable High Credit Risk** means there is some doubt in Your ability to pay amounts owing by the due date or in case of interim payment when requested based on factors such as:

- a. New customer with no previous payment behaviour record;
- b. Adverse previous payment history and payment behaviour by You or anyone at the same address e.g. late payments, dishonoured payments or failure to pay;
- c. Non payment of outstanding dues to Us or a bank/ credit card/ cheque transaction declines
- d. Any previous advice from You about a potential inability or unwillingness to pay;
- e. Your usage of service is inconsistently high when compared with previous usage patterns;
- f. Your response where We have told You of this unusually high usage,
- g. Pending bankruptcy or insolvency; or
- h. You exceed the soft credit limit provided to You

**We/Us/Our** means Edirect Pty Ptd., (ACN 99 108 532 083) trading as VIPtel Mobiles.

**You** means the customer who contracts with Us for a Service including for supply of that service to another person, or who seeks to acquire a Service from Us.

## 1.7 INTERPRETATION

In a Service Contract the following rules of interpretation apply unless the context requires otherwise

- a. Headings are for convenience only and do not affect the interpretation.
- b. The singular includes the plural and vice versa.
- c. Reference to any gender includes all genders.
- d. Where a word or phrase is defined, its other grammatical forms have a corresponding meaning.
- e. Reference to a person includes a body corporate, an unincorporated body or other entity and vice versa.
- f. Reference to a party means Us or You and includes the party's executors, administrators, successors and permitted assigns.

- g. Reference to a right or obligation of any two or more persons confers that right, or imposes that obligation, as the case may be, jointly and severally.
- h. Reference to an agreement, document, manual or other instrument includes any variation or replacement of any of them;
- i. All dollar amounts are expressed in Australian dollars.

## 2. **BECOMING A VIPTTEL MOBILE CUSTOMER.**

2.1 When you ask for a service, we decide whether to supply it to you based on:

- (a) the particular terms for that service; and
- (b) your eligibility for the service; and
- (c) its availability to you; and
- (d) You meeting our credit requirements and/ or any other check we might have in place at that point in time.

2.2 The contract between Us and You begins when We accept Your application for the supply of Service which is usually the date you give a verbal authorisation during a verification call. It continues until terminated in accordance with its provisions, or under law.

### **COMMENCEMENT OF SERVICES**

The provision of services commences when:

- 2.3 Your accounts are transferred to us by Your current supplier
- 2.4 Pre selection has been activated
- 2.5 Upon completion or installation of any necessary equipment; or
- 2.6 Any other arrangement with another supplier for the provision of the services are completed.

### **NO CONTRACT TERM FOR A SERVICE.**

2.7 If We provide a service to You without a fixed contract term, We will provide the Service in accordance with the SFOA and the terms and conditions for the specific Service plan until the Service is cancelled under clause 11 below.

### **PROVISION OF SERVICES WITH CONTRACT TERM**

2.8 We provide You a Service with a fixed term contract in accordance with the SFOA and the terms and conditions for the specific Service:

- (a) For the fixed contract term, or
- (b) Until the specific Service is cancelled under clause 11 below

2.9 If the agreement is a fixed-length agreement and neither you nor we cancel the service at the end of the minimum term, the agreement becomes a non-fixed length agreement and we will continue to supply the service to you on a month-to-month basis in accordance with the agreement.

2.10 If You do not wish to continue the specific Service after the end of Your fixed contract term, You must provide Us 30 days notice of Your intention to cancel the specific Service.

2.11 Minimum period of Agreement: Walk Away Rights under the Consumer Contracts Code may apply to you in some cases. We shall notify you when they apply. Walk Away Rights override clauses 2.11.1, 2.11.2 and 2.11.3 below, and permit you to terminate your Service agreement

early, without penalty.

2.11.1. If your Service includes an inclusive handset, you may not terminate your Service agreement for:

- 2.11.1.1. any minimum period stated in the specific terms of the Service package you selected; or
- 2.11.1.2. If no minimum term is stated in those terms 24 months.

2.11.2. If your Service does not include an inclusive handset, but the specific terms of the Service package you selected states a minimum term, you may not terminate your Service agreement during that minimum term.

2.11.3. In any other case, including when a minimum term has expired, you may terminate your Service agreement by 30 days written notice to us.

2.12. Monthly contract: Except during any minimum period, your Service agreement is from month to

month, and you may terminate it on a month's written notice to us.

### **3. HOW WE COMMUNICATE**

3.1 You may contact Us in any of the following ways:

- By Telephone
- By email
- Through our Website
- Through our postal address

We issue bills setting out the charges for Your Services regularly and these bills are sent out to You Using an agreed billing notification method.

3.2 The presentation of bills and other notices may be adversely affected by equipment or conditions beyond our control. It is Your responsibility to notify Us if the presentation of any bill or notice sent to You is adversely affected.

3.3 We can communicate with you by

Email, if We have an email address for You:

- a. We may send You bills or notices under this SFOA by sending an email to that address
- b. it is Your responsibility to check Your email regularly and ensure Your mail facility is capable of receiving emails from Us
- c. the bill/ notice is deemed delivered to You as soon as Our email message leaves Our computer system

3.4 We may also send You SMS alerts / notices on Your mobile phone from time to time. The alert/ notice is deemed delivered the moment SMS leaves Our computer system

3.5 Bills/ Notices may also be delivered to Your address registered on our records. It is deemed delivered 3 days from the date of posting.

### **4. YOUR RESPONSIBILITIES**

#### **PAYMENT FOR SERVICE**

4.1 You are responsible for and have to pay for any Use of Your Service, whether or not You authorise it.

4.2 If you do not disconnect your service when you leave your premises, you have to pay for any use of the service by later occupants or others. We recommend you consider taking measures to protect yourself from unauthorised use of your service. Any person who uses your service, or allows someone else to use it, after you have vacated your premises, is jointly and individually liable with you for any charges relating to that use.

#### **ACCESS TO PREMISES**

- a. We may need access to Your Premises. You agree to provide Us safe access to Your Premises to:
  - (i) install equipment for a Service You have asked for; and
  - (ii) Inspect, test, maintain and repair or replace Equipment, and
  - (iii) Recover our Equipment after Your Service is cancelled
- b. If You do not own Your Premises, You have to get the owner's permission for Us to access the Premises and install any Equipment.
- c. You owe Us the value of our Equipment as a debt due if We cannot access Your Premises to recover it.

### **5. USE OF SERVICE**

5.1 Where the SFOA and/or specific Service terms state that a Service is provided for a particular purpose, You must only allow the Service to be used for that purpose

5.2 In some circumstances, We may monitor usage of Your Service for excessive or unusual usage pattern but We do not promise to do so. You are responsible for monitoring the use of Your Services.

5.3 You may not use a Service to commit an offence or allow anyone else to do so.

5.4 You are responsible for ensuring that no one interferes with the operation of a Service or makes it unsafe.

5.5 You must follow our reasonable instructions if We determine that Your use of a Service interferes or threatens to do interfere with our or our supplier's network/s.

5.6 You must follow our Acceptable Usage Policy and Fair Go Policy when Using our Services. These policies can be found at [www.viptel.com.au/policies](http://www.viptel.com.au/policies)

## **6. LIABILITY**

### **6.1 OUR LIABILITY TO YOU**

a. We will use reasonable care and skill in providing our services and will provide our service in accordance with Our Customer Terms. However, given the nature of telecommunications systems (including our services' reliance on systems and services that we do not own or control), we cannot promise that our services will be continuous or fault-free.

b. As Your Service is provided to You for personal, domestic or household use, We do not accept responsibility for losses that result from the use of Your Service in connection with the conduct of a business.

c. We are liable to You for breach of contract or negligence under the principals applied by the courts subject to clause 6.2 below

d. We are not liable for any loss to the extent that it caused by You through Your negligence or breach of contract

e. We are not liable for any loss to the extent that it results from Your failure to take reasonable steps to avoid or minimise Your loss, and

f. We are not liable for any loss caused by Us failing to comply with our obligations in relation to Your Service where that loss is caused by events outside our reasonable control, such as failure in equipment that is not owned by Us, an industrial strike or an act of god.

6.2 Our liability for any breach of any term, condition, warranty or under any remedy implied by law (which cannot be excluded), will be limited at our option to the repair or re-supply of equipment or Services or the payment of the cost of having the equipment or Services re-supplied.

6.3 subject to clause 6.2, all terms, conditions, warranties, undertakings, inducements and representations, whether express or implied, statutory or otherwise, relating to the provision by us of the Services are excluded, and VIPtel will not be under any other liability in respect of any loss or damage (including consequential loss or damage) however caused (whether by negligence or otherwise) which may be suffered or incurred or which may arise directly or indirectly in respect of the Services.

### **YOUR LIABILITY TO US**

6.4 You are liable to Us for breach of contract or negligence under the principals applied by the courts. However You are not liable to Us for any loss to the extent that it is caused by Us, for example, through Our negligence or breach of contract.

6.5 The provisions set out in clause 6 will continue unaffected by cancellation or suspension of Your Service.

## **7. MAINTENANCE AND REPAIR OF SERVICES**

### **GENERAL MAINTENANCE OF SERVICE**

7.1 We can also suspend or restrict your service temporarily if we reasonably believe it is desirable or necessary to do so to maintain or restore any part of our network. We will try to perform maintenance and repair work at times that will cause the least inconvenience to our customers. If we have no alternative but to cancel your service due to necessary maintenance or restoration of any part of our network, we will not charge you any early termination fee.

### **MAINTAINING THE SERVICES**

7.2 Unless We advise You otherwise We maintain the Services for as long as they are offered to You.

7.3 In certain circumstances We are required to repair any faults to the VIPtel Home Phone Services within certain regulatory time frames.

## **EQUIPMENT**

7.4 Where You use Equipment that does not belong to Us in the course of utilising Our Services, You are responsible for maintaining and repairing that Equipment. We will not be responsible for any faults resulting from Your failure to maintain and repair that equipment.

7.5 Where Your equipment causes a fault in Your Service that We need to repair, We can charge for repairing the faults. We will tell You the amount of call-out fee and the hourly rates. We charge for repairing faults before We start work.

7.6 You are responsible for any Equipment at Your Premises, including any that belongs to Us. You must pay Us for any loss or damage to Our Equipment at Your Premises, fair wear and tear excepted.

7.7 You must provide an adequate and suitable space, power supply and environment for all equipment used in connection with the service and located on the premises.

## **YOUR EQUIPMENT**

7.8 You must only connect equipment that complies with relevant technical standards and other relevant requirements. For these standards see the Website of Australian Communication and Media Authority: [www.acma.gov.au](http://www.acma.gov.au)

7.9 You must make any reasonable changes to Your Equipment when We ask You to do so to avoid any damage or interference.

7.10 You must advise Us of any change to Your Equipments and/or telecommunications Services that may affect Our ability to provide Service to You.

## **8. CHARGES AND PAYMENTS**

### **CHARGES**

8.1 The charges payable for our Services are set out on Web page setting out the plans for those Services and can be found at [www.viptel.com.au/plans](http://www.viptel.com.au/plans).

8.2 Plan Charges exclude certain call types and charges such as international calls and texts, global roaming, directory assistance, operator services and premium calls and text messages.

8.3 When You apply for a Service from Us, We will go through the Charges for that specific Service with You. Some of these Charges will be fixed for the duration of fixed term contract, for example minimum monthly access fee. Some Charges will be subject to change without notice for example international calling charges. Some times You will be required to pay a particular charge in advance.

8.4 If You use Our Service to access a Service provided by someone else, and We are charged for that other Service, You must pay Us for that other Service.

8.5 Pro rata Charges: Where You are a customer for only a part of a billing period, any Charges or entitlements to Service may be pro rated, for example if You join half way through a billing period:

- We may charge You half the full fixed Charge for that particular billing period; and
- If included calls for a full billing period are \$100, Your included calls for that particular billing period would be \$50.

8.6 . Unless specifically stated otherwise, all Charges are net of all discounts. A credit or rebate in respect of a Service can never exceed what we Charge you for the Service.

### **BILLS**

8.7 You can access Your current charges at any time by calling Customer Care Number

8.8 We issue bills for charges for your services regularly. We can also issue an interim bill at any time.

8.9 We try to include all charges relating to a billing period on that bill. Where that does not happen, bills may include charges from previous billing periods as long as we comply with the

billing requirements in the Communications Alliance Code – Telecommunications Consumer Protections (C628).

8.10 We are required by various industry codes to ensure that our bills are accurate and verifiable and we are committed to complying with these requirements. Our records are sufficient proof that a charge is payable unless they are shown to be incorrect.

8.11 We also issue bills setting out the charges for Your Services regularly and these bills are sent out to You Using an agreed billing notification method.

8.12 Charges shown in bills are GST exclusive unless stated otherwise.

8.10 There may be circumstances where for credit management and usage monitoring purposes We issue an interim bill.

8.11 We try to include all charges relating to a billing period in a bill .Where that does not happen, bills may include charges from previous billing periods. We may not set out charges that were incurred more than 6 months prior to the date of a particular bill.

#### **DIRECT DEBIT AND CREDIT CARDS**

8.12 We prefer to process payment for our Services by way of debiting Your credit card or direct debit of Your bank account.

8.13 It is Your responsibility to ensure there You have sufficient credit or funds available in Your bank account or credit card to pay the bill.

8.14 If a payment is dishonoured, We may continue trying to debit Your credit card/ bank account on subsequent days.

#### **LATE OR DISHONoured PAYMENTS**

8.15 If You do not pay a bill by its due date, We may charge You an administrative fee.

8.16 If You pay by direct debit and there are insufficient funds in Your bank account, You must also pay Us a fee.

8.17 The administrative fee set out in this clause do not attract GST.

8.18 We can also suspend or cancel Your Service provided We comply with our rights to suspend or cancel Your Service set out in clause 11 below.

8.19 We can also engage a mercantile agent to recover the money you owe us. If we engage a mercantile agent, we may charge you a recovery fee;

8.20 We can institute legal proceedings against you to recover the money you owe us. If we institute legal proceedings, we may seek to recover our reasonable legal costs reasonable incurred;

8.21 We may sell any unpaid debts to a third party. If we do this, any outstanding amounts will be payable to that third party.

#### **ADJUSTMENTS**

8.22 We can pay You amounts We owe You by deducting them from amounts You owe Us.

8.23 If You pay any charges in advance, like monthly access fee, and they are varied or Service is cancelled, We will refund You any overpayment and You have to pay Us any underpayment. This clause does not detract from any obligations regarding notification to cancel a Service or pay early termination fees where applicable.

#### **COMMON CHARGES**

8.24 The following charges (inclusive of GST) are applicable to all Services supplied by Us:

a. Printed invoices: If You wish to receive duplicate paper invoices from Us, a charge of \$6.00 per invoice applies

b. Direct debit declined: if a direct debit transaction is not processed successfully, except where due to an error on our part or an error on part of the supplier, a charge of \$3.03 per decline transaction will apply

c. Late payment: where You have not successfully made payment within at least 14 days after payment is due a late payment charge of \$6.60 may apply.

d. Debt Collection: where a payment is due by more than 28 days, We may refer the debt to our lawyers or a third party and a debt collection administration charges may apply.

## **9. CREDIT CHECKS AND SECURITY BOND**

### **CREDIT CHECKS**

9.1 You authorise Us to conduct credit checks and searches and to Use the information obtained as a result of these checks and searches to assess Your creditworthiness so long as in doing so We comply with the Privacy act.

### **SECURITY BOND**

9.2 VIPtel may from time to time require you to lodge a security bond as a condition of us providing Services to you. You authorize us to deduct from that bond any amounts remaining owing to us after 30 days after date of invoice.

9.3 At any time We can require You to provide some form of security, for example a security deposit, a charge or bank guarantee, or pay some or all of the charges for Your Service in advance. We will only do so if We have reasonable concerns about Your credit worthiness or have reasonable grounds to believe that We may not be paid for the Service. In case of new Services, We can refuse to provide You the Services until We receive the security. In case of existing Services, if You do not provide the security within 14 days of our request, We can restrict, suspend or cancel the Service in addition to any other rights We may have.

9.4 If You cancel Your Services, We will return the security deposit or advance payment to You after deducting any outstanding charges owing to Us within a reasonable time.

9.5 Our acceptance of any form of security or advance payment does not affect any other rights or obligations under this SFOA.

## **10. CAP CREDITS/ CREDIT LIMITS**

10.1 Your soft credit limit will be determined by results of Your credit check and may change from month to month depending upon Your payment and usage history, i.e. Your outgoing services will be suspended only when Your due amount equals Your credit limit. Your services will be resumed once this amount plus GST has been paid in full. To find out Your credit limit, please call customer service at 1300 785 847

## **11. TERMINATION OR SUSPENSION OF SERVICE**

11.1 You may cancel a Service at any time by giving Us a 30 days notice of Your intention to do so.

11.2 If You cancel the Service before the end of any fixed term, We can charge You an early termination fee.

11.3 If You cancel a Service before We have provided it to You, We can charge You any reasonable costs We incurred while preparing to provide the Service to You.

11.4 If you acquire the service from us through a sales method regulated by door-to-door sales and/or outbound telemarketing legislation in your state or territory, you may cancel the service before the end of the cooling-off period set out in the relevant legislation;

### **MATERIAL BREACH BY US**

11.4 You may cancel the Service at any time if:

- a. We are in material breach of the SFOA, like We fail to Use reasonable care and skill in providing the Service to You, and
- b we breach a material term of the agreement and we can remedy that breach, but we do not remedy that breach within 30 days after you give us notice requiring us to do so; or
- c. any intervening event prevents the supply of the service in accordance with the agreement for more than 14 days.

11.5 We will not charge You early termination fee if You cancel Your Service as a result of our material breach.

### **CUTOMER'S RIGHTS TO CANCEL**

11.6 You can also cancel Your Service by telling Us with as much warning as You reasonable can if:

- a. We become bankrupt or insolvent, or
- b. the law requires You to do so, or
- c. provision of Service becomes illegal

11.7 We will not charge You early termination fee if You cancel Your Service as a result of our material breach.

#### **OUR RIGHTS**

11.8 Where You are a fixed term contract customer, We can cancel Your Service before the end of the fixed term contract at any time, if:

- a. We get Your consent to do so, or
- b. We take reasonable steps to appropriately offset the effect of cancellation on You, for example by providing a credit or rebate to You, or
- c. We migrate You to a reasonable comparable alternative Service for the remainder of Your fixed term contract, or
- d. We offer to migrate You to an alternative Service for the remainder of Your fixed term contract and take reasonable steps to offset any material detrimental effects of the migration caused by any material differences between the cancelled Services and the alternative Services We offer.

11.9 We will not charge You early termination fee if We cancel Your Service under clause 11.8 above

#### **MATERIAL BREACH BY YOU**

11.10 We can cancel Your Service at any time, if

- a. You are in material breach of the SFOA, and
- b. We have notified You in writing of Your breach and You have failed to remedy it within 14 days of notification, or
- c. The breach is something that cannot be remedied, in which case We will cancel the Service immediately.

11.11 You will be in material breach of the SFOA if You:

- a. Do not pay the charges for the Services when they become due and payable
- b. Use Your Services in a way which We reasonable believe is fraudulent, poses an unacceptable risk to our security or network, or is illegal, or
- c. Breach any of Your obligations under our Acceptable Usage Policy and/or Fair Go Policy

11.12 We can charge You any applicable early termination fee if We cancel Your Service under clause 11.11 above and You remain liable for all charges payable under the Agreement in respect of Services up to the time of termination and you must pay all outstanding amounts within 14 days after receipt of our invoice.

#### **SUSPENSION OF SERVICE**

11.13 We can suspend or restrict the provision of Your Service because You are in material breach of the SFOA. If You ask Us to reconnect Your Service following suspension for failing to pay an account, You have to pay a reconnection fee.

#### **OTHER PROVISIONS TO TERMINATE, SUSPEND OR RESTRICT THE SERVICE**

11.14 We can cancel, suspend or restrict Your Service by telling You with as much warning as We reasonably can if:

- a. the law requires Us to do so
- b. the Service becomes illegal or We believe on reasonable grounds that it may become illegal
- c. You die
- d. an emergency affects our ability to provide the Service
- e. We are unable to provide the Service to You due to an event outside our control, such as failure in Equipment that is not owned or operated by Us, an indUstrial strike or an act of God; or
- f. We reasonably believe that providing the Service may cause death, personal injury or damage to property

11.15 We will not charge You any applicable early termination fee if We cancel Your Service under clause 11.14 above

11.16 We can also cancel, suspend or restrict Your Service without notice if:

- a. We cannot enter Your Premises to do something in connection with the Service that We need to do in order to supply the Service or make the Service or related Equipment safe
- b. You become bankrupt or insolvent
- c. You vacate the Premises to which the service is connected

- d. You do not pay Your bill by the bill due date or any charges owing to us remain outstanding after 30 days
  - e. There is excessive or unusual use of the Service
  - f. We reasonable believe You are using the services for fraud; or
  - g. We reasonably consider that You pose an unacceptably high credit risk to Us
- 11.17 We can charge You any applicable early termination fee if We cancel Your Service under clause 11.16 above

#### **MAINTENANCE AND REPAIR WORK**

11.18 We can suspend and restrict Your Service temporarily if We reasonably believe it is required to maintain and restore part of a third party supplier's network. We will try to perform repair work at times that will cause least inconvenience to our customers. If We have no alternative but to cancel Your Service due to necessary maintenance or restoration of any part of a third party supplier's network, We will not charge You any applicable early termination fee.

#### **IF YOU USE THE SERVICE FOR BUSINESS PURPOSES**

11.19 If We are providing the Service to You for Your personal use and We have reason to believe that You are Using the Service mainly for business purposes, We can ask You to cancel the Service by giving You a 30 days notice and charge You any applicable early termination fee.

#### **REFUNDS OF PREPAYMENTS**

11.20 If Your Service is cancelled under this clause, We will refund to You any unused portion of Your monthly access fee if this has been paid in advance and any other prepaid amounts. However, We will deduct from the refund any amounts that You owe Us. This clause does not detract from any obligations You may have to give notification to cancel a Service or to pay early termination fees where applicable.

### **12. VARIATIONS**

Subject to section 480 of the Telecommunications Act, VIPtel may vary any part of this agreement at any time.

#### **FIXED TERM CUSTOMERS**

12.1 Your monthly access fee, minimum monthly fee or any early termination fee applies for the term of Your fixed term contract and We cannot change these without Your informed consent.

12.2 In all other circumstances, We may amend these terms and conditions as follows:

#### **CHANGES THAT BENEFIT YOU**

12.3 If We reasonably believe that an amendment to the SFOA will benefit You or have a neutral impact on You, We can make the amendment immediately

#### **CHANGES THAT MAY AFFECT YOU ADVERSELY**

12.4 Where We reasonably believe that an amendment to the SFOA will have a minor impact on You, We will give You individual notice within 12 Weeks of the change being implemented.

12.5 If You prove that the change referred to in clause 12.4 above will have more than a minor impact on You, We will allow You to cancel the Service without charging any applicable early termination fee.

12.6 Where We reasonably believe that an amendment to the SFOA will result in more than a minor detrimental impact to You, We will tell You 21 days prior to the making the amendment.

12.7 If any amendment to the SFOA would have an adverse material impact on You, You may cancel Your Service without paying any early termination fee.

### **13. RIGHT TO CANCEL DURING COOLING OFF PERIOD**

13.1. **IMPORTANT:** Under consumer laws,

You have the right to cancel your Service agreement during a 'cooling off period'. We offer the same right to every customer, even if you are not entitled to it by law. But to be fair to us, you may only exercise the right within the time limits below.

Notice to the purchaser wanting to cancel this agreement:

- 13.2. If you wish to cancel this agreement – Please sign and date the notice of cancellation and
- 13.2.1. Post it to us,
  - 13.2.2. Or fax it to the fax number set out in the notice
  - 13.2.3. Or telephone VIPtel Mobile on 1300 785 847, Monday to Friday, 9:00AM - 8:00 PM AEST to arrange collection.
- This must be done within 14 days from and including the day you received the agreement document (‘cooling off period’).
- 13.3. You may still be require to pay a fair price for goods which cannot be returned to us unless you entered into the agreement because we or our agent made a false or misleading representation about your need for the goods.
- 13.4. We do not require you to pay for the unused Services provided to you during the cooling-off period (unless, in the case of a telephone marketing agreement, the services are provided to you on a continuing basis.)
- 13.5. Please return equipment and SIM cards using registered post or courier service. The equipment must be in its original packaging Unopened with all accessories, and all items securely packed.
- 13.6. We invite you to write and explain the reason why you are sending the phone and SIM back as it will help improve our services in the future.

#### **14. TRANSFER OF YOUR ACCOUNT TO US**

- 14.1 Changing your Current Arrangements: If, in providing the Services, VIPtel needs to change your arrangements with your current Supplier, then VIPtel will do so in accordance with this clause.
- 14.2 Transfer of Services to VIPtel
- 14.2.1 You appoint VIPtel to act as your agent and authorise us to transfer Your accounts into our name
  - 14.2.2 You agree to give written instructions to your current Supplier to transfer Your accounts from Your name to ours if we so request.
  - 14.2.3 You will immediately pay to Your current supplier all amounts owing up to the time of transfer of Your accounts to our name.
- 14.3 If Your current supplier credits us with any amount concerning services provided before the date of transfer, we will credit that amount to your account
- 14.4 If after Your current supplier raises a proper charge relating to a service provided to You before the commencement of services, we will advise you accordingly and You must pay Your current Supplier that amount
- 14.5 We will not accept any liability for any amounts owing by You to Your current supplier for services, which Your current Supplier supplied to You prior to the commencement of our services to You.
- 14.6 You must indemnify us against any claims made by Your current supplier to us in relation to any such amounts..

#### **15. TRANSFER OF YOUR ACCOUNT FROM US TO ANOTHER SUPPLIER**

- 15.1 If in the future You transfer any of the Services to another Supplier, then You remain responsible to us for the amount payable for the Services up to the time Your Services are taken over by another Supplier and tolling with us stops. You must pay us the amount owing within a reasonable time (not exceeding 21 days) on receipt of our invoice.
- 15.2 The provision of our Services is deemed to have ceased when your newly appointed carrier commences tolling of Your nominated Services.
- 15.3 We will endeavor to bill You for those Services within the next normal billing period.

15.4 If after that, VIPtel becomes aware of other proper charges (including fees payable to any other Supplier) for those Services up to the date of transfer, or VIPtel resolves any disputes so that any liability of ours relating to those Services is quantified, then You will immediately pay us all such amounts on receipt of our invoice.

15.5 VIPtel will credit You with any amount credited to us by another Supplier for those services up to the date of transfer of those accounts to another Supplier.

## **16. GENERAL**

16.1 If any term, or part of a term in this SFOA is void or unenforceable, that term or part is taken to be removed from the SFOA and not to form part of it. The remaining terms continue to have full effect.

16.2 VIPtel is committed to providing best services to its customers. To report a fault or complaint, please call our customer service number or lodge a complaint on our Website [www.viptel.com.au](http://www.viptel.com.au). You may view our complaint policy at [www.viptel.com.au/policies](http://www.viptel.com.au/policies). Alternatively You may call our Customer Services to request for a copy of the policy.

16.3 For matters regarding Financial Hardship, please request for a copy of our Financial Hardship Policy or log on to [www.viptel.com.au/policies](http://www.viptel.com.au/policies)

16.4 VIPtel offers various promotional schemes from time to time; the eligibility criteria is informed to all customers. The date of commencement and discontinuation is reserved with Us. At times the offer depends upon services of other carriers, telecommunications service providers or hardware suppliers due to which the provisioning may get affected.

16.5 Further information and the current version of this standard agreement can be obtained from VIPtel's website on [www.viptel.com.au/policies](http://www.viptel.com.au/policies).

16.6 This agreement is governed by the laws of Victoria, Australia. Victorian law and courts are not exclusive. You may choose the governing law of the State or Territory in Australia in which You ordinarily reside or the jurisdiction of the courts in that State or Territory.

16.7 This agreement contains the whole understanding between us to the exclusion of any prior or collateral agreement or understanding of any kind relating to the services.

16.8 The failure by either party to exercise any right or remedy under this Agreement in a timely manner does not constitute acceptance of the matter which gave rise to the right or remedy, nor that party's waiver of such right or remedy.

16.9 To the extent applicable, the Customer Service Guarantee applies to the provision of Services under this Agreement.

16.10 If a provision of this Standard Agreement is void, inapplicable or unenforceable or the invalid part severed, the remainder of this agreement will not be affected

## SPECIFIC SERVICE TERMS AND CONDITIONS

### VIPTel MOBILE PHONE SERVICES

This is the service description for the VIPTel Mobile Phone Service.

The agreement is made up of your:

- (a) customer agreement form (CAF),
- (b) consumer terms (SFOA)(as applicable to you),
- (c) this service description

#### 1. MOBILE PHONE SERVICES

We will provide you with local, national, fixed-to-mobile and international long distance services and services of any kind which VIPTel may agree to provide you from time to time ('Services'). We will provide the Services using our own facilities and services or those of other carriers, telecommunications service providers or equipment suppliers ('Supplier') subject to the coverage. Details about VIPTel Mobile Phones and associated Services together with the terms and conditions relating to specific mobile plans are available on our Website and can be located at [www.viptel.com.au](http://www.viptel.com.au). The following terms and conditions apply to all VIPTel Mobile Phone and associated services.

#### 2. SIM CARDS

We will provide You with a SIM card so that You can access Your VIPTel mobile phone service. All SIM cards remain Our property. You agree to the following conditions in relation to any SIM card which We provide You:

- To take adequate precautions to prevent damage to your SIM Card or unauthorised use or theft of the SIM Card;
- That you are procuring the SIM Card and the Service solely for your own use and that you will not re-sell or otherwise act as any form of distributor in respect of the SIM Card or the Services.
- We may require You to comply with SIM card activation procedures in order to protect You against unauthorized Use of SIM card.
- You must take all reasonable care to keep the SIM card in a safe and good condition.
- You must immediately return the SIM card to Us on demand, or if We suspend or terminate Your mobile phone service in accordance with clause 11 of our SFOA.
- If You fail to return the SIM card to Us within 30 days of Our demand, or date of suspension or termination of Your mobile phone Service, You must pay Our standard SIM card replacement fee.
- You must notify if any SIM card is lost, stolen or destroyed, even if You have not yet activated the SIM card. You will be liable for all charges attributed to any SIM card supplied to You until such time as You have notified Us of the theft, loss or destruction of the SIM card.
- You must obtain Our express authorization, which may be conditional upon the lodgment of a security deposit, to Use the SIM card in countries outside Australia. Using Your SIM Card outside of Australia requires VIPTel to activate its mobile phone roaming service (**Roaming Service**). The roaming service includes charges for incoming calls at the rate set by the mobile phone supplier of the country in which You receive the calls and a forwarding charge to all incoming calls forwarded by Us to Your mobile phone. Details of the roaming service Charges can be found on our Website [www.viptel.com.au](http://www.viptel.com.au) or by calling our Customer Care Number.

### **3. MOBILE NUMBER PORTABILITY**

3.1 You may be able to port a phone number you have obtained from another carrier or carriage service provider when you connect to the service.

You can acknowledge that:

- a) You are authorized to request the porting of the mobile numbers to Us.
- b) By porting the mobile number to Us, the mobile service and/or any related services associated with that mobile number may or may not be disconnected from Your previous mobile service provider and may result in finalization of the account for that service.
- c) For the purpose of porting Your mobile number, call and message routing, fault management and fraud prevention You permit Us to disclose relevant details set out above to other service providers.

3.2 Although You have the right to port the mobile numbers:

- a) There may be costs and obligations associated with Your previous mobile services and the porting of the mobile number.
- b) If You have an existing long term contract with Your previous mobile service provider You may be obliged to make early termination payments to that provider.
- c) Porting may be unsuccessful if You fail to provide full and accurate details to Us or if You cancel Your mobile service with Your previous supplier before the port cutover date.
- d) If another supplier raises a proper change with Us relating to a service it provided to You before porting of Your mobile number to Us, We will advise You accordingly and You must pay the other supplier that amount. If You dispute the amount claimed, You must notify Us in writing, You may also be liable to pay to Us or Your previous supplier charges relating to disputes or investigations by Us or Your previous supplier arising out of the transfer of Your mobile phone service to Us.
- e) We will not accept any liability for any amounts owing by You to another supplier for services associated with the mobile number prior to the date on which We port Your mobile number.
- f) You hereby authorize Us to take all the reasonable steps necessary to port Your mobile number.
- g) You may need a new mobile phone or you may need to have your mobile phone unlocked if you are porting between different types of mobile networks.
- h) You can port a phone number you have obtained from us for use with the service to another carrier or carriage service provider.
- i) We may charge you a fee to port the phone number to another carrier or carriage service provider.

### **4. PRODUCT WARRANTY**

Mobile Phones and other products supplied to you by VIPtel under this agreement come with a 12 month manufacturer's warranty. Arrange with VIPtel to have any product found defective under normal use to be returned to the manufacturer for repair or replacement. Or you may contact the manufacturer directly with a copy of your Proof of Purchase sent to you along with the product. VIPtel shall not be liable for transportation, installation or consequential damages. VIPtel makes no other warranty express or implied.

Except as provided above, this agreement does not exclude, restrict or modify rights which You may have under Trade Practices Act 1974 (Cth) of other legislation to the same effect in respect of the conditions and warranties implied into this agreement.

### **5. INTERIM CHARGES**

For Credit Management Purpose:

- a) Where You incur Charges in excess of Your credit limit, We may, but are not obliged to, send You an SMS advising You of this fact.
- b) We may restrict Services to Your mobile Phone.
- c) We would re instate the services when We receive an interim payment.

## 6. CHARGES

6.1 You must pay us all fees and charges ('Charges') that we properly bill to you.

6.2. Charges may include:

- Call connection charges
- Per minute charges
- Disconnection and reconnection charges and early termination fees
- Untimed charges
- Dishonor fees and overdue charges
- Credit card payment fees
- Phone rental charges
- Installation charges
- Service and equipment charges.

6.3 Current Charges are available on request by calling 1300 785 847, or at [www.viptel.com.au](http://www.viptel.com.au).

6.4 Unless specifically stated otherwise, all Charges are net of all discounts.

6.5. Where you are a customer for only part of a billing period, any Charges or entitlements that are tied to billing periods may be prorated. e.g. If you join half way through a billing period:

We may charge you half the full fixed Charge for that part billing period, and If Included Calls for a full billing period are \$100, your Included Calls for that part billing period are \$50.

6.6. A credit or rebate in respect of a Service can never exceed what we Charge you for the Service.

6.7 Charges from other Suppliers: We may pass on any changes in other Suppliers' charges to us (including increases, specials or one-off charges) - but we will notify you of applicable Walk Away Rights where they apply.

6.8 Other Charges: You must pay us in accordance with clause 6.1 any charge which any other Supplier or other person renders to us: 6.8.1. Because you approach that other Supplier or person directly, or otherwise than through us; or 6.8.2. for connection or initiation of any Service (if we told you about it in advance) or for cancellation of any Service (unless you cancelled under Walk Away Rights).

6.9 Taxes: Charges are GST-inclusive.

6.10 Payment by credit card/Bank Account: We may debit your credit card/Bank account when we have raised an invoice. If the credit card transaction is declined, we may do one or more of the following:

6.10.1. impose a fee equal to

- (a) any decline fee our bank or credit card provider charges us plus (b) reasonable compensation for our extra costs directly arising from the declined transaction;

6.10.2. continue trying to debit your credit card/Bank Account on subsequent days;

6.10.3. Impose restrictions, suspend, disconnect and terminate your service. (The Credit Code Obligations may require us to go through certain procedures and / or give you certain information before we suspend, restrict or cancel a Service, and we shall do so where they apply.);

6.10.4. If a payment is outstanding for more than 14 days, refer the matter to an external debt collection or legal firm, and impose a fee for doing so. (The Credit Code Obligations may require us to go through certain procedures and / or give you certain information before we take credit management action, and we shall do so where they apply.)

6.11 Premium Services: Numbers starting from 1300, 1900 and all 6 digit numbers are charged as Premium numbers.

## 7. UNREASONABLE USE

- a) You must follow Our Fair Go Policy when Using VIPTel Mobile Phone Services. This Policy can be found at: <http://www.viptel.co.au/policies>
- b) We further reserve the right to terminate Your Mobile Phone services if You do any of the following without our written permission, which can be withheld at Our sole discretion.
  - Make or receive calls or send or receive content Using the mobile phone Service other than Your own personal Use;
  - Wholesale any service, including transit, re- file or aggregate domestic or international traffic;

- Use the service including any SIM Card , in connection with a device that switches or reroutes calls to or from Our network of any supplier;
- Use the Service or a value added service feature to switch devices which overcome the time cap on free of flat call rates, thus keeping a line open potentially for hours and limiting the ability of other customers to access Out network or the network of Our supplier.
- Materially breach our Fair Go Policy.

**8. RESPONSIBILITIES FOR CHARGES**

You are responsible for paying all Charges relating to Your mobile phone service even if You did not personally authorize the services which incurred the charges. Details of the Charges for VIPtel’s Mobile Phone Services can be found at [www.viptel.com.au](http://www.viptel.com.au). We will also detail the relevant charges applicable to Your mobile phone service when You sign up for this service.

**9. PREMIUM SERVICES**

Premium services are content, voice and data services offered by third party providers and attract high usage charges. Due to the potential credit risk associated with such services, We reserve the right to bar access to Premium Services by default. If you subscribe to these services intentionally or unintentionally, You will be totally responsible for the charges associated with usage of these services. Numbers starting from 1300, 1900 and all 6 digit numbers are charged as Premium numbers. For more information on Premium Services please visit our website [www.viptel.com.au/plans](http://www.viptel.com.au/plans) and click on the link.

**10. EARLY TERMINATION FEE IF APPLICABLE**

If You cancel the Mobile Phone Service before the end of any fixed term of Your service has expired, We can Charge an early termination fee which may include the cost of any discounted equipment sold to you on Your Mobile Phone Service plan. For further details please contact our Customer Care Number.

**11. CHANGING THE EXISTING VIPTTEL NUMBER TO A NEW VIPTTEL MOBILE NUMBER**

If any customer wants to change his/her VIPtel mobile number on the grounds of receiving harassment calls, then the customer has to fulfill either one of the following requirements: Lodge a police complaint and send us a copy of the same OR on payment of \$50 (ex. GST).

**MEANINGS OF WORDS**

**Charge** means a charge specified in the SFOA or for any Service provided by Us to You.

**Equipment** means a ‘Facility’ under the *Telecommunications Act 1997* and includes any mobile, line, tower, mast, antenna, tunnel, hole, pit or pole Used in connection with a Service.

**Network** means a ‘Telecommunications Network’ as defined under the *Telecommunications Act 1997*.

**Service** means any Service that We supply to You and includes any goods or Equipment provided in connection with a Service.

**We/Us/Our** means Edirect Pty Ltd., (ACN 99 108 532 083) trading as VIPtel Mobiles.

**You** mean the customer who contacts with Us for a Service, including for supply of that Service to another person, or who seeks to acquire a Service from Us.

## **FIXED LINE SERVICES**

### **VIPTel FIXED LINE SERVICES**

This is the service description for the VIPTel Fixed Line Service.

#### **The agreement is made up of:**

- (a) Customer Agreement Form (CAF),,
- (b) Consumer terms (SFOA)(as applicable to you),
- (c) This service description

#### **1. AVAILABLE FIXED LINE SERVICES**

When You purchase fixed line services from Us, You may have the option of purchasing:

- a) **Our full Service product:** We provide a standard telephone service and all calls from that service (including long distance calls and calls to mobiles.)
- b) **Our Pre Select Product:** which includes long distance calls, calls to mobile numbers and international calls – this means that We provide specific pre- selected services that You choose but the provider of Your standard telephone service does not change.

#### **2. WHAT IS STANDARD TELEPHONE SERVICE?**

A standard telephone service includes line rental, a telephone number, a telephone directory listing and making and receiving local and long distance calls.

#### **3. WHO CAN SIGN UPTO A FIXED LINE SERVICE?**

Only an occupier of premises, or their authorized representative, may sign up to a standard telephone service. We may require evidence, such as rental agreement, contract of sale, or similar document, to confirm that You have the right to arrange for the connection of a fixed line service.

#### **4. WHAT FEATURES ARE AVAILABLE WITH STANDARD TELEPHONE SERVICE?**

There are number of enhanced call handling and other features available. More information on such features may be available from our Website.

#### **5. TELEPHONE NUMBERS AND PINS**

- a) The Telecommunications Numbering Plan set out rules for issuing, transferring and changing telephone numbers. We must comply with the Telecommunication Numbering Plan. In Using Your service, You must not do anything that would be inconsistent with the Telecommunications Numbering Plan or that would adversely affect our ability to comply.
- b) You do not own or have any legal interest or goodwill in any telephone number or PIN issued to You. You are entitled to continue to Use any telephone number, We issue to You, except in circumstances where the Telecommunications Number Plan allows Us to recover the number from You.
- c) You can transfer a telephone number or PIN to another person if You get our consent first.
- d) Because You have to pay for any Use of Your service (whether You authorize it or not), We recommend You to protect the security of any PIN Used with Your service.
- e) For a service where Usage is associated with PIN, We can change the Telephone number that You Use to access that service. However, We will tell You of the change in before it takes effect (For Example, by placing a recorded voice announcement on the affected service.) Once the Telephone number of accessing the service is changed, it is important that You Use the changed telephone number as You may not be able to access that service Using the old telephone number.

#### **6. PORTING YOUR TELEPHONE NUMBER**

You are normally able to retain Your existing telephone numbers when You change service providers. If You wish to retain Your existing number You acknowledge that:

- a) You are authorized to request the porting of telephone numbers to Us.

- b) By porting the telephone numbers to Us, the fixed line service and/or, any related services associated with that telephone number may or may not be disconnected from Your previous service provider, and may result in finalization of the account for that service.
- c) For the purposes of porting Your telephone number, call and message routing, fault management and fraud prevention You permit Us to disclose relevant details set out above to other service providers.
- d) Although You have the right to port the telephone number:
  - There may be costs and obligations associated with Your previous fixed line service and the porting of the telephone number.
  - If You have an existing long term contract with Your previous service provider You may be obliged to make early termination payments made to that provider.
- e) Porting may be unsuccessful if You fail to provide full and accurate details to Us, or if You cancel Your fixed line service with Your previous supplier before the port cutover date.
- f) If another supplier raises a proper charge with Us relating to a service it provided to You before porting of Your telephone number to Us, We will advise You accordingly and You must pay the other supplier that amount. If You dispute the amount claimed, You must notify Us in writing. You must also be liable to pay to Us, or Your previous supplier charges relating to disputes or investigations by Us, or Your previous supplier arising out of the transfer of Your fixed line service to Us.
- g) We will not accept any liability for any amounts owing to You to another supplier for services associated with the telephone number prior to the date on which We port Your telephone number to Us.
- h) You hereby authorize Us to take all reasonable steps necessary to port Your telephone number.
- i) You can port a phone number you have obtained from us for use with the service to another carrier or carriage service provider.
- j) We may charge you a fee to port the phone number to another carrier or carriage service provider.

**7. PREMIUM SERVICES**

Premium services are content, voice and data services offered by third party providers and attract high usage charges. Due to the potential credit risk associated with such services, We reserve the right to bar access to Premium Services by default. If You wish to gain access to these services You need to contact our Call Centre .If We agree to unbar such services, You will be totally responsible for the charges associated with usage of these services. Numbers starting from 1300, 1900 and all 6 digit numbers are charged as Premium numbers.

**8. INTERIM CHARGES**

For Credit Management Purpose:

- a. Where You incur Charges in excess of Your credit limit, We may, but are not obliged to, send You an SMS advising You of this fact.
- b. We may restrict Services to Your Phone.
- c. We would re instate the services when We receive an interim payment.

**9. RESPONSIBILITY FOR CHARGES**

You are responsible for paying all charges relating to Your fixed line service even if You did not personally make all the telephone calls from that service nor authorize those calls. Details for the

charges for VIPtel's Fixed line Service can be found at [www.viptel.com.au](http://www.viptel.com.au). We will also detail the relevant charges applicable to Your fixed line service when You sign up for this service.

**10. EARLY TERMINATION FEE IF APPLICABLE**

If You cancel the fixed line service before the end of any fixed term for Your service has expired, We can charge an early termination fee. Details of when the early termination fee will be applicable are set out in clause 11 of the General Terms and conditions and can be found at [www.viptel.com.au](http://www.viptel.com.au).

**11. ABOUT PRE SELECTION AND OVER RIDE CALLS**

If You are a full service customer who has contracted to obtain a VIPtel fixed Line Service for a fixed term, You must not pre select any calls to mobiles (Pre Selected Service) to a different service provider. If You do acquire Preselected services from a different service provider during the fixed term, then We may at our option:

- Treat the fact that You have pre selected certain services to a different service to a different services to a different service provider as an election by You to terminate Your VIPtel Fixed line service and Your agreement with VIPtel for the supply of that service, in which case any applicable early termination fee or cancellation charges may apply;
- Reverse the preselected services from the different service provider and continue providing full service fixed line service to You; or
- Continue providing You with local services only in accordance with our standard rates and conditions. Our standard rates charged to customers on fixed term contracts.

**MEANING OF WORDS**

**CHARGE** means a charge specified in SFOA or for any service provided by Us to You.

**PREMISES** means any land, building, structure, vehicle or vessel whether owned, leased or occupied by You, containing equipment or a service, or to which a service is supplied.

**SERVICE** means any service that We supply to You and includes any goods or equipment provided in connection with a service.

**WE/US/OUR** means Edirect Pty Ltd., (ACN 99 108 538 083) trading as VIPTTEL Mobiles.

**YOU** means the customer who contracts with Us for a service, including for supply of that service to another person, or who seeks to acquire a service from Us.

# **INTERNET SERVICE TERMS AND CONDITIONS**

## **VIPTel INTERNET SERVICES**

This is the service description for the VIPTel Internet Service.

### **The agreement is made up of:**

- (a) Application,
- (b) Consumer terms (SFOA)(as applicable to you),
- (c) This service description

## **1. PROVISION OF SERVICES**

1.1 VIPTel provides Dial Up, Broadband and Mobile Wireless Broadband Internet Services. We will provide VIPTel Dial Up service to You from the date that You order the Service and You pay initial payment required for that service. If You order a VIPTel Broadband or VIPTel Mobile Wireless Broadband Service, We will provide the Service to You from the date that the Service is provisioned.

1.2 VIPTel will provide the service to you with due care and skill. In the event of unexpected faults we will use reasonable endeavours to ensure the service is restored as soon as possible.

1.3 Details about VIPTel Internet and associated Services together with the terms and conditions relating to specific Internet plans are available on Our Website and can be located at [www.viptel.com.au](http://www.viptel.com.au). The following terms and conditions apply to VIPTel Internet and associated Services.

## **2. CUSTOMERS OBLIGATION**

2.1 You must comply with Our VIPTel Acceptable Usage Policy and where applicable the VIPTel Fair Go Policy when Using a VIPTel Internet Service. These policies can be found at [www.viptel.com.au/policies](http://www.viptel.com.au/policies)

2.2 You must comply with all Our reasonable directions regarding the access and use of Internet Service.

2.3 You warrant that in accessing and using the Internet service, You will only use software that You are legally entitled to Use. 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 via the Internet Service, except where We actually provide such content or information. We disclaim all or any liability for any material on the Internet that You may find offensive, upsetting, defamatory or personally offensive.

2.4 You must not access, nor permit any other party to access the Internet Service for any purpose or activity of an illegal or fraudulent nature.

2.5 You must not reproduce, distribute, transmit, publish, copy, transfer or commercially exploit any information accessed through or received from the Internet Service that would infringe the intellectual property rights of any person.

2.6 You are responsible for preparing and maintaining sufficient back up files and data storage capacity for all Your data including electronic messages.

2.7 We have no responsibility to provide training in the Use of any VIPTel Internet Service and/ or related applications.

## **3. IP ADDRESSES**

Any IP addresses allotted to You by Us whether as a static address or dynamically allocated:

- a. Remains Our sole property
- b. May be changed or revoked by Us at our sole discretion at any time; and
- c. Is not transferrable

**4. EMAIL, ANTI-VIRUS AND ANTI-SPAM FILTERING SERVICE TERMS AND CONDITIONS**

**VIPTel Email Filtering Service:** You can elect to acquire a VIPTel Email Filtering Service. This Service Uses automated processes in an attempt to identify undesirable emails and diverts such emails to a quarantine folder stored on Our server.

(a) We keep a quarantined email for at least 7 days, after which time the email may be deleted. It is Your responsibility to check quarantined emails regularly to ensure that You retrieve any emails that You require. Any quarantined emails stored by Us as part of this Service may count towards any size limit or quota imposed on Your email Services by Us.

(b) Email filtering involves software determining whether or not an email is undesirable. As this determination is made automatically and is not reviewed by Us, this Service may from time to time result in:

- i. Undesirable content being permitted; and
- ii. Content that is not undesirable being quarantined

(c) This Service applies to incoming emails only. There are many other ways that undesirable content could reach Your computer, including through Web browsing, chat, instant messenger applications, Internet denial of service attacks, physical access to Your computer by other people and sharing of risks or other media. We recommend that You take responsible precautions to protect Your computer and data, including:

- i. Operating a firewall to filter Internet traffic;
- ii. Running and regularly updating anti- virus and anti- spyware software; and
- iii. Taking reasonable precautions with passwords, credit cards numbers and allowing others physical access to Your hardware by another people

**VIPTel Anti- virus Filtering Services:** You can elect to acquire a VIPTel Anti- virus Filtering Service. This Service scans Incoming emails for computer code that could be harmful to Your computer or to other Users, including viruses, Trojans and worms and diverts such emails to a quarantine folder stored on the Our server. Although We take responsible steps to regularly update the anti-virus software Used. We cannot promise that the anti-virus filtering tool will quarantine all harmful content. You should take precautions with the content of emails You receive, including running security software; and not opening attachments from sources unless You are certain of the identity and reliability of the sender.

**VIPTel Anti-Spam Filtering Service:** You can elect to acquire a VIPTel Anti- Spam Filtering Services. This Service scans incoming emails for messages that may be unsolicited advertising, based on the content of the message, including any information included in the email header, and diverts such emails to a quarantine folder stored on the Our server. Although We take reasonable steps to regularly update the anti-spam filtering toll will quarantine all unwanted emails, or that emails that are not spam will never be quarantined. You should always take precautions to reduce the amount of spam You receive, including avoid publishing Your email address on news-group or Websites and avoid responding to unsolicited emails.

**Liability:** Due to the fact that the Service listed in this clause are basic Services and We charge a nominal amount for such Services, to the extent permitted by law. We will not be liable for any losses, costs or expenses, including legal costs, resulting from:

- (a) A claim that an email which contains undesirable content has not been quarantined;
- (b) A claim that an email which does not contain undesirable content has been quarantined; and / or
- (c) Any claim arising from the provision of ant VIPTel Email, Anti-virus or Anti Spam Service

The charges for the service listed in this clause 4 are as notified by Us from time to time via Our Website and are payable at the same time as Charges for Your Internet Service.

**5. VIPTEL DIAL UP SERVICE TERMS AND CONDITIONS**

5.1 The VIPTel Dial-up Internet Service is suitable for people who have only limited Internet download needs. To access the Internet the VIPTel Dial Up Service Uses Your home phone line. We will supply all the information You need to get connected. You will also need a dial-up

modem. Your computer may have a dial-up modem built in, or You can purchase a dial-up modem from most computer stores.

5.2 We may apply an automatic disconnection of this Service after a period of idle time or lengthy continuous Use

5.3 The cost of the VIPtel Dial up Service is separate from the call cost to access the Service. You can access the internet from most fixed phones in Australia for the cost of a local call, or Usual ISDN data call charges if You are an ISDN customer.

Speed Accelerator: You can elect to acquire a Speed Accelerator from Us.

(a) The Speed Accelerator Uses specific software on Our server to compress certain information as You browse the internet and download emails. The compression allows the information and makes it available for viewing. The Compression process may affect Image quality as You browse the internet Depending on how You configure the Speed Accelerator software on Your computer, a better quality image is Usually downloads a short time later.

(b) We cannot guarantee that the speed for downloading information will increase. The actual speed increases, if any, will change depending on the type of content that is being accessed

(c) Using the Speed Accelerator will not change any excess data transfer Charges. Your data Usage will still be metered on the uncompressed content.

(d) We will notify You of the charges for this Service from time to time by way of Our Website. Charges are payable at the same time as Charges for Your monthly Dial-UP Service.

## 6. **VIPTel BROADBAND TERMS AND CONDITIONS**

6.1 In order for Us to provide You with the VIPtel Broadband Service. You need to do the following

(a) Ensure Your Computer is configured for ADSL connections;

(b) Ensure that You keep Your account information, password, data and Equipment secure;

(c) Regularly check the default email address that We have allocated to You for messages about Your Broadband Service;

(d) Ensure that any other people to whom You provide access to the VIPtel Broadband Service comply with Our Acceptable Usage Policy;

(e) Ensure that any equipment provided by You does not damage the VIPtel Broadband Service or any other transmission facilities.

6.2 The ADSL Service works off a fixed telephone line and as such can sometime affect the fixed telephone line. **You warrant that:**

(a) You are the legal lessee of the standard fixed telephone service to which the VIPtel Broadband Service will be connected;

(b) If You are not the legal lessee of the relevant telephone service, You have obtained the written legal lessee's permission to connect the VIPtel Broadband service.

You acknowledge that:

(a) If the relevant telephone service is disconnected Your VIPtel Broadband Service may be disconnected, and this agreement terminated, in which case You may be liable to pay Us a cancelation fee or early termination fee, if any such fee is applicable to Your service.

(b) The installation of Your VIPtel Broadband Service may cause minor disruptions to the relevant telephone service;

(c) The installation of the VIPtel Broadband Service may interfere with other services You receive, such as back to base security monitoring services, it may be necessary to install additional. Equipment such as a central line splitter, filter and Network termination device to ensure that these services continue to operate when a VIPtel Broadband Service has been installed. You must involve any provider of monitoring services that installation of the VIPtel Broadband Service may cause temporary interruption of monitoring services and that installation of additional equipment may be required.

(d) There may be minor disruptions to Your VIPtel Broadband Service; and

(e) You may not be able to access some other products and services that are incompatible with Your VIPtel Broadband Service. For example, 'Fax stream Duet Service.'

6.3 If You move premises this will be regarded as a disconnection of Your VIPtel Broadband Service and You will have to request Us to reconnect the VIPtel Broadband Service at Your new

premises Connection fees will be applicable in these circumstances.

**7. VIPTel MOBILE WIRELESS BROADBAND SERVICE TERMS AND CONDITIONS**

7.1 The Service is a Broadband Internet Service and provides access to the Internet and other related services. The Service provides access to the internet and related data services from Your personal computer or laptop computer via a wireless connection in areas covered by the Optus Mobile 3G/HSDPA and GSM Networks. The service is only available to the customers within Optus 3G/HSDPA or GSM coverage areas and is subject to Network availability.

7.2 In areas that the VIPTel Mobile Wireless Broadband Service is available VIPTel does not warrant that:

- (a) The VIPTel Mobile Wireless Broadband Service is available in each place within an area where there is coverage;
- (b) Drop outs will not occur
- (c) There will be no delays in transferring data when switching between bearer and Networks; and
- (d) There will be no congestion on Optus Network.

7.3 The speed of the data transmitted Using the VIPTel Mobile Wireless Broadband Service will vary depending on the following factors:

- (a) If You are located in an area covered by 3G/HSDPA Network or GSM Network.
- (b) The number of Users sharing the Optus Network;
- (c) The computer hardware and software Used by You;
- (d) General activity on the Internet; and
- (e) Speed and capacity of the service being accessed.

7.4 The Service is only available for Use with a VIPTel supplied SIM Card and wireless data device. VIPTel may supply the wireless data device or You may Use Your own wireless data device if it is approved for Use on the Optus 3G/HSDPA or GSM Networks.

7.5 If We supply the wireless data device .We may charge You an upfront fee or monthly fee for the device. Please check the pricing plan to find out which charges apply for the supply of the wireless data device. We will deliver the wireless data device and Your service will be activated within 7 days after You ordered and paid the initial payment for Your Service.

7.6 If You Use Your own wireless data device to access the Service the operation of the device, and any repairs to it are Your responsibility.

**8. SIM CARDS AND SOFTWARE**

**SIM CARDS**

8.1 We will provide You with a SIM card so that You can access You VIPTel Mobile Wireless Broadband Service. All SIM cards remain Our property. You agree to the following conditions in relation to any SIM card which We provide to You:

- (a) We may require You to comply with SIM card activation procedures in order to protect You against unauthorized Use of the SIM card.
- (b) You must take all the reasonable care to keep the SIM card in safe and good condition.
- (c) You must immediately return the SIM card to Us on demand or if We suspend or terminate Your Mobile Phone Service in accordance of clause 11 of Our SFOA.
- (d) If You fail to return the SIM card to Us within 30 days of our demand, or date of suspension or termination of Your VIPTel Mobile Wireless Broadband Service, You must pay Our standard SIM Card replacement fee.
- (e) You must notify Us immediately if any SIM card is lost stolen or destroyed, even if You have not yet activated the SIM card, You will be liable for all the Charges attributed to any SIM card supplied to You until such time You have notified Us of the theft, loss or destruction of such SIM card.

8.2 SIMS on which the VIPTel Mobile Wireless Broadband Service is activated are only permitted to be used inside a Roamer Device.

8.3 If a SIM Used in another device to access a voice or data services ('Non –Permitted Usage);

- (a) We may charge You the current rates at which those Services are supplied to Our customers; and

(b) Any data Usage will count as part of monthly or per hour Usage allowance in respect of the VIPtel Mobile Wireless Broadband Service.

#### **SOFTWARE**

8.4 Where We provide Software for the VIPtel Mobile Wireless Broadband Service. We do not make any warranty or representation regarding the performance of the Software as it operates on Your computer. You agree not to make a claim against Us in respect of the Software or its performance.

8.5 The Software may not be compatible with some operating systems, including versions of operating systems, including versions of operating systems older than Microsoft Windows XP SP2 and Macintosh OS 10.4 operating systems.

8.6 You may not disassemble, decompile or reverse engineer any Software provided by Us in relation to the VIPtel Mobile Wireless Broadband Service.

#### **9. INTERIM CHARGES**

For credit management purposes:

(a) Where You incur Charges in excess of Your credit limit, We will send You an SMS advising You of this fact.

(b) We may restrict Services to Your mobile Phone.

(c) We would re institute the services when We receive an interim payment.

#### **10. RESPONSIBILITY FOR CHARGES**

You are responsible for paying all charges relating to Your VIPtel Internet Service even if You did not personally authorize the services which incurred the Charges. Details of the Charges for VIPtel's Internet Service can be found on [www.viptel.com.au](http://www.viptel.com.au). We will also detail the relevant charges applicable to Your VIPtel internet service when You sign up for this Service.

#### **11. EARLY TERMINATION FEES IF APPLICABLE**

If You cancel the VIPtel Internet Service or VIPtel Mobile Wireless Broadband Service before the end of any fixed term for Your service has expired, We can charge an early termination fee equal to the monthly fixed charge for each month remaining in Your term. If You have received a discounted laptop or other device in Your Service plan, then You may be liable for further early termination fees. The terms and conditions relating to Your VIPtel Internet Service or VIPtel Mobile Wireless Broadband Service plan will set out whether any such termination fees are applicable. See [www.VIPtel.com](http://www.VIPtel.com) for this information Details of when the early termination fee will be applicable are set out in clause 11 of the General Terms and Conditions.

#### **MEANINGS**

**3G/HSDPA** means a wideband CDMA which operates at a higher frequency than the digital GSM cellular mobile Network and GPRS Networks to transmit voice and data services or, HSDPA which is available if You have an HSDPA compatible modem and are located in an HSDPA coverage area.

**3G/HSDPA Network** means the Optus 3G Network, Used to transmit 3G services, including HSDPA services.

**Charge** means a charge specified in the SFOA or for any Service provided by Us to You.

**Equipment** means a 'Facility' under the Telecommunications Act 1997 and includes any line, tower mast, antenna, tunnel, hole, pit or pole Used in connection with a Service.

**GSM Network** means the Optus mobile GSM (global system for mobile) Network which is digital mobile Network Used to transmit voice and data services.

**Roamer Device** means a wireless modem, such a USP modem or 3GPC Data Card, which is used to access the VIPtel Mobile Wireless Broadband Service. The Roamer Modem is compatible with the 3G/HSDPA Network and the GSM Mobile Network.

**Service** means any Service that We supply to You and includes any puts or Equipment provided in connection with a Service.

**SIM** means Our subscriber identity module card which when inserted into Your Equipment gives You access to the VIPtel Mobile Wireless Broadband Service.

**Software** means the software supplied by Us for Use with the VIPtel Mobile Wireless Broadband Service and includes the software that You need to install and Use the VIPtel Mobile Wireless Broadband Service as updated from time to time.

**We/Us/Our** means Edirect Pty Ltd., (ACN 99 108 532 083) trading as VIPtel Mobiles.

**You** means the customer who contacts with Us for a Service, including for supply of that Service to another person, or who seeks to acquire a Service from Us.



PO Box 7194,  
Melbourne, VIC 8004,  
Australia.

T: 1300 785 847

F: 1300 858 064

E: [info@viptel.com.au](mailto:info@viptel.com.au)

W: [www.viptel.com.au](http://www.viptel.com.au)