Our Customer Terms
BigPond service section

Part E – Additional services

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Part E – Additional services

Certain words are used with the specific meanings set out in this Part of Our Customer Terms.

1 About this Part

1.1 This is part of the BigPond service section of Our Customer Terms.

1.2 Provisions in other parts of the BigPond service section may apply.

1.3 Unless specifically stated otherwise, Part A - General Terms for BigPond services does not apply to the BigPond additional services set out in this Part G. If other parts of the BigPond service section are inconsistent with something in this section, then this section applies instead of the other part, to the extent of any inconsistency.

1.4 Part G - BigPond additional services is divided into separate sections. General conditions which apply to your BigPond additional service are set out in Section 2. Specific terms which apply to your BigPond additional service are set out in the later sections of this Part.

1.5 In this BigPond service section of Our Customer Terms:

(a) "**you**" and "**your**" mean the customer (including a group administrator and a group member where applicable); and

(b) "**we**", "**us**" and "**our**" means Telstra Corporation Limited (ABN 33 051 775 556) and employees; as well as its agents, sub-agents and their respective employees.

2 General conditions for BigPond additional services

Credit card payments

2.1 If your bill is paid by credit card, we can charge you a payment processing fee. Refer to your bill for the amount of the fee.

Late or dishonoured payments

2.2 If you do not pay a bill by its due date, we can charge you an administrative fee of:

(a) $5.00 if the amount outstanding on your bill after the due date is $65.00 or more but less than $130.00;

(b) $11.00 if the amount outstanding on your bill is $130.00 or more but less than $200.00; or

(c) $15.00 if the amount outstanding on your bill is $200.00 or more.

No administrative fee is charged if the amount outstanding on your bill after the due date is less than $65.

2.3 We can also suspend or cancel your service provided we comply with our rights to cancel or suspend your service set out in this section.

2.4 If you pay a bill by cheque and the cheque is dishonoured, you must also pay us a fee of $15.00. If you pay a bill by direct debit and there are insufficient funds in the account, you must also pay us a fee of $10.00. These fees do not attract GST.

Adjustments

2.5 We can pay you amounts we owe you by deducting them from amounts you owe us.

2.6 If we require you to pay any charges in advance (eg, monthly access fees) and they are varied or the service is cancelled, we can refund you any overpayment and you have to pay us any underpayment.

Material breach

2.7 In addition to any other circumstances described in these terms, you will be in material breach of Our Customer Terms if you use your service in a way which we reasonably believe is fraudulent, poses an unacceptable risk to our security or network capability or is illegal or likely to be found illegal.

Using your service this way is also a breach that cannot be remedied.

Our additional rights to cancel your service

2.8 We can also cancel, suspend or restrict your service in the event of death by giving your authorised representatives (if any) as much warning as we reasonably can. We will not charge you any applicable cancellation fee if we cancel your service for this reason.

2.9 As well as any other rights outlined in these terms, we can also cancel, suspend or restrict your service by telling you with as much warning as we reasonably can if:

(a) you become bankrupt or insolvent or appear likely to do so; or

(b) we reasonably consider that you pose an unacceptably high credit risk to us.

We consider that you pose an unacceptably high credit risk to us when there is some doubt as to your ability to pay by the due date based on factors such as:

- previous payment history and payment behaviour (eg late payments, dishonoured payments or failure to pay);
- any previous advice from you about a potential inability or unwillingness to pay;
- your usage is inconsistently high when compared with previous usage patterns;
- your response where we have told you of this unusually high usage; or
- pending bankruptcy or insolvency.

2.10 If we terminate your service under clause 2.9 during your minimum term, you must pay us the cancellation fee set out in the charges section for your service.

Refund of prepayments

2.11 Unless expressly stated otherwise in these terms, if you cancel your service under these terms, we will refund to you any unused portion of your monthly access fee and any other amount you have prepaid. However, we can deduct from your refund any amounts that you owe to us, such as charges you incurred before the cancellation or any applicable early termination fee.

Security

2.12 At any time, we can require you to provide some form of security (eg, 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 for believing that we may not be paid for the service. In the case of new services, we can refuse to provide you the services until we receive the security. In the 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 – this is in addition to any other rights that we may have.

2.13 If you cancel all your services, we will return the security deposit or advance payment to you less any outstanding charges within a reasonable time.

2.14 Our acceptance of any form of security or advance payment does not affect any other terms of Our Customer Terms.

Unauthorised Use

2.15 You are responsible for and have to pay for any use of your service, whether you authorise it or not. We recommend you consider taking measures to protect yourself from unauthorised use of your service. If you have a ADSL, Cable or Satellite service:

(a) 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; and

(b) 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.

3 Premium Mail

3.1 BigPond Premium Mail is an electronic mail service that is accessible through the Internet and from a web browser.

3.2 The service includes the software for downloading onto your PC.

3.3 It does not include:

(a) correction of errors or defects caused by using the service in a way that is inconsistent with these terms; or

(b) any equipment, telecommunications services or Internet access required to access, or use features of, the service.

Availability

3.4 In order to use the service, you must:

(a) be a post-paid BigPond Internet customer;

(b) have access to an Internet connection; and

(c) have requested us to host your domain name or have requested the party hosting your domain name to configure the mail exchange record to refer to the Telstra BigPond Internet Server we nominate to you.

3.5 If you wish to use certain features of the service, then you may be required to have access to compatible equipment with a relevant telecommunications service, for example a compatible mobile phone with a GPRS service. You may obtain such equipment and telecommunications service at an additional cost, and you will be responsible for the related usage charges.

3.6 If you require assistance to migrate one or more mailboxes from your current service provider (whether BigPond or a third party) to BigPond Premium Mail, you may request one of our agents to migrate the mailboxes for you at a cost of $74.25 (incl GST) for the

first half an hour or less, and an additional $37.15 (incl GST) for each further block of up to 15 minutes. For further details, contact BigPond Sales on 1800 002 609.

3.7 The service is not available if you are a Telstra wholesale customer or an end user of a Telstra wholesale customer.

Features of each plan

3.8 The Group PC/Web Access plan includes the following features:

(a) Email, contacts, calendar, tasks, notes and anti-virus software;

(b) Microsoft Outlook 2003 Licence that installs on your PC;

(c) Outlook Web Access;

(d) Outlook SMS;

(e) Meeting Planner;

(f) Public (shared) folders available offline;

(g) 'Active Sync' using Managed Exchange Mobile Add-On;

(h) Archive folder creation;

(i) Import and export mailbox information; and

(j) Shared mailbox access.

3.9 The Group Web Access plan includes the following features:

(a) Email, contacts, calendar, tasks, notes and anti-virus software;

(b) Outlook Web Access;

(c) Meeting Planner;

(d) Outlook SMS;

(e) 'Active Sync' using Mobile Add-On;

(f) Public (shared) folders online; and

(g) Archive folder creation.

This plan does not provide you the capability to access your email and other features from your PC or laptop if you are not connected to the internet.

3.10 The Solo Manager plan includes the following features:

(a) Email, contacts, calendar, tasks, notes and anti-virus software;

(b) Outlook Web Access;

(c) 'Active Sync' using Mobile Add-On; and

(d) 20MB of email storage.

This plan does not provide you with calendaring or scheduling features. Nor does it provide you with the capability to access public folders or colleagues the capability to access your mailbox.

3.11 The Solo Manager Plus gives includes the following features:

(a) Email, contacts, calendar, tasks, notes and anti-virus software;

(b) Outlook Web Access;

(c) Meeting Planner;

(d) 'Active Sync' using Mobile Add-On; and

(e) 20MB of email storage.

This plan does not enable you to schedule meetings with others, access public folders or provide access to fellow colleagues to your mailbox.

For the purposes of this clause:

MB means megabyte, a unit of information equal to one million (1,048,576) bytes.

Charges

3.12 You must pay the charges set out below for your service by the date specified on your bill.

3.13 The monthly subscription fee is payable in advance and will not be reduced if the service is cancelled part way through a billing cycle. If you have been migrated to BigPond's new environment, the subscription fee will be pro-rated so that you will only pay for the part of the month for which you subscribed to the service.

3.14 If your service or the BigPond Internet service to which this service relates is terminated for any reason, we may issue a final invoice immediately.

3.15 We may issue your first invoice when your service commences.

3.16 Without limiting our rights under clauses 2.2 or 2.9 of this Part, if you do not pay your invoice amount when it is due, we may do any or all of the following:

(a) if the amount remains outstanding for 30 days after the due date, terminate your service; and

(b) if the amount remains outstanding for 60 days and there are reasonable grounds for believing you represent a credit risk, terminate or disconnect any other services we supply to you.

3.17 We charge you the following for the Premium Mail services:

Plan	**Storage space**	**Monthly Fee**	**Additional storage charge**
Group PC/Web Access	20MB	**$14.95/mailbox**	**10¢/MB**
Group Web Access	20MB	**$9.95/mailbox**	**10¢/MB**
Solo Manager Plus	20MB	**$6.95/mailbox**	**10¢/MB**
Solo Manager	20MB	**$4.95/mailbox**	**10¢/MB**

Additional charges apply for telecommunications services and Internet access required to use the service.

The additional storage charges are calculated by averaging daily storage used across the month.

Additional Storage terms

3.18 We will provide you with client software to use BigPond Premium Mail for the Group PC/Web Access plan. Use of any client software is subject to the terms for that client software.

Domain name services

3.19 Customised domain name services are available to BigPond Premium Mail customers.

3.20 You can ask us to apply for your requested domain name as your agent. We do not guarantee your application will be successful.

3.21 If the application is successful, then we will become the Delegated Domain Administrator ("**DDA**") for that domain name. When we become the DDA, we will automatically direct to a Telstra BigPond Internet Server (or such other Internet server we nominate) all electronic mail messages received by us and addressed to you using the requested domain name.

3.22 If you ask us to register a .com, .net, .org, .biz, or .info domain name ("**TLD**" or "**Top Level Domains**") on your behalf, then you must read and accept the General Registrar policy applicable to .com, .net, .org, .biz and .info domain names issued by the registrar TPP Internet located at http://www.tppinternet.com/pub/dotau/terms.php#gtld, as amended from time to time.

3.23 If you ask us to register a .com, .net or .org domain name on your behalf, you must comply with any policy applicable to .com, .net and .org domain names issued by ICANN from time to time ("**Policy**"). For more information, see http://www.icann.org/.

3.24 In the event of a dispute in registering a TLD, or a dispute about a TLD after registration, you will:

(a) submit to and be bound by Uniform Domain Name Dispute Resolution Policy located at http://www.icann.org/udrp/, as amended from time to time; and

(b) be subject to arbitration, suspension or cancellation by any ICANN procedure, or by any registry administrator procedure approved by ICANN policy, relating to:

a) the correction of mistakes by us or the registry administrator in registering the domain name; or

b) the resolution of disputes concerning the domain name.

3.25 If you ask us to register a .com.au, .id.au, .net.au or .org.au domain name ("**.au Domains**" on your behalf, then you must read and accept:

(a) the policies applicable to terms for .au Domain Name Licences issued by the registrar TPP Internet located at http://www.tppinternet.com/pub/dotau/terms.php#au, as amended from time to time; and

(b) the .au 2LD Domain Name Eligibility and Allocation Policy Rules issued by .au Domain Administration Limited ("**auDA**") located at http://www.auda.org.au/policies/auda-2005-01/, as amended from time to time.

3.26 If we apply for a requested domain name:

(a) in the event of a dispute in registering a .au Domain, or a dispute about a .au Domain after registration, you will submit to and be bound by the .au Dispute Resolution Policy ("**auDRP**") located at http://www.auda.org.au/audrp/audrp/, as amended from time to time;

(b) by maintaining the registration of the requested domain name after changes to the applicable policies become effective, you accept those changes. We do not have control over these policies and you may not be notified that they have changed. It is very important that you check the most up-to-date version of the applicable policies regularly;

(c) in the event of a dispute regarding the requested domain name, you will submit to the jurisdiction of the courts as provided in the applicable policies;

(d) you must pay any registration or delegation charges to us in advance. A requested domain name cannot be registered unless you pay for it in advance;

(e) we make no representations and give no warranties regarding the availability of the requested domain name;

(f) you authorise and direct us to nominate Telstra Corporation Limited ABN 33 051 775 556 or WebCentral Pty Limited ACN 084 429 318 as the authorised billing contact for the requested domain name;

(g) we are not liable for any loss or damage resulting from the non-renewal of the requested domain name if you fail to provide us with consent to renew the requested domain name registration or you delay in providing us with such consent;

(h) by applying for a requested domain name or providing us with your consent to renew the requested domain name registration, you promise that you are, and will remain, eligible to register the requested domain name during the registration or renewal period; and

(i) you are responsible for all claims against us arising out of the registration, use or renewal of the requested domain name, if the claim is based on conduct which would be a breach by you of these terms the warranty statement you made when applying for, or renewing, a requested domain name. You are not responsible to the extent that the claim arises out of our breach of these terms, or our negligent act or omission.

Service availability

3.27 We will use due care and skill in providing the service. There are also other non-excludable rights under consumer protection laws (such as Competition & Consumer Act 2010 and State and Territory Fair Trading Acts) which may apply to goods or services we supply to consumers, including that services be fit for their purpose. However, we do not warrant that the service will be supplied at all times without any outage, fault or delay.

3.28 We may perform scheduled and unscheduled maintenance to the systems that we use to provide the service. We will attempt to perform all scheduled maintenance at times which will affect the fewest customers.

3.29 We may archive your data on a regular basis for the purposes of disaster recovery. In the event of equipment failure or data corruption, we will use reasonable endeavours to restore your data from the last known good archive. We do not warrant that backups will:

(a) occur on every scheduled occasion;

(b) be complete; or

(c) be uncorrupted.

3.30 We will not be liable for incomplete, out-of-date, corrupt or otherwise deficient data recovered from our backups where we have acted with reasonable care and skill.

This clause does not limit your rights under consumer protection legislation.

Use of the service

3.31 You must advise us in a timely manner if you have reason to suspect that the service is being used contrary to these terms.

3.32 We will determine, in our absolute discretion, the location from which your service is provided from time to time.

3.33 You must not re-sell the service.

3.34 We will charge you an additional fee, as set out above under “Charges” applicable to your service, if all the messages in your mailbox (including attachments) exceed your Mail Quota.

3.35 If you ask us to provide any services that are not set out in this clause 5, for example to assist you to transition or migrate a mailbox, then if we decide to provide those services to you, we will charge you, and you must pay, an additional fee. We will tell you about this

additional fee when you make your request (and let you know whether the fee is set out in the charges table set out above or an amount which we tell you).

For the purposes of this clause:

Mail Quota means the maximum size allocated to you for your mailbox equal to 20MB or as set out in the charges section above applicable to your service.

Terms regarding use of Microsoft software

3.36 These terms apply to your use of Microsoft software provided by us or our supplier as part of the service and supersede the terms of any Microsoft End User License Agreement which may be presented in electronic form during your use of that software.

3.37 The software products are licensed to us or our supplier from an affiliate of Microsoft Corporation. All title and intellectual property rights in and to the software products are owned by Microsoft or its suppliers. The software products are protected by copyright laws and international copyright treaties, as well as other intellectual property laws and treaties. Your possession, access, or use of the software products does not transfer any ownership of the software products or any intellectual property rights to you.

3.38 You may use the Client software installed on your Devices only in accordance with our instructions and in connection with the service as follows:

(a) to install on one (1) Device only. You must obtain additional licences for each additional concurrent use;

(b) only to connect to the service; and

(c) for the duration of these terms.

3.39 Use of the Client Software other than as specified above is a breach of these terms.

3.40 Through your use of the services, you may gain access to the Redistribution Software. You may not use, modify, copy, and/or distribute any Redistribution Software unless you expressly comply with certain additional terms notified by us to you.

3.41 Except for making one (1) copy of Client Software on your Device as expressly authorized by us ("Permitted Copy"), you may not make any copies of the Software Products or copy any printed materials accompanying the Software Products. You must erase or destroy the Permitted Copy upon the earliest of:

(a) termination or cancellation of these terms;

(b) notice from us; and

(c) transfer of your Device to another person or entity.

3.42 You must not:

(a) remove, modify or obscure any copyright, trademark or other proprietary rights notices that appear on the Software Products or that appear during their use;

(b) reverse engineer, decompile, or disassemble the Software Products, except to the extent permitted by law notwithstanding this limitation; and

(c) rent, lease, lend, pledge, or directly or indirectly transfer or distribute the Software Products to any third party, and you may not permit any third party to have access to and/or use the functionality of the Software Products.

3.43 The Software Products are of U.S. origin for purposes of U.S. export control laws. You must comply with all applicable international and national laws that apply to the Software Products, including the U.S. Export Administration Regulations, as well as end-user, end-use and destination restrictions issued by U.S. and other governments.

3.44 Without prejudice to any other rights, we may terminate your rights to use the Software Products if you fail to materially comply with these terms.

3.45 If these terms or your right to the use Software Products is terminated or cancelled, you must:

(a) stop using and accessing the Software Products; and

(b) destroy all copies of the Software Products and all of its component parts.

3.46 Any product support for the Software Products is provided to you by us and is not provided by Microsoft or its affiliates or subsidiaries.

3.47 To the extent permitted by applicable law, we do not make any representations or express warranties with respect to the Software Products. Our liability to you is set out in the liability section of these terms. However, notwithstanding anything in these terms, consumers may have the benefit of certain rights or remedies pursuant to the *Competition & Consumer Act 2010* and similar state and territory laws in Australia in respect of which liability may not be excluded or limited. If liability under some consumer protection laws cannot be excluded but can be limited,, then to the maximum extent permitted by law, such liability is limited at our option, in the case of goods to either (i) replacement of the goods or (ii) correction of defects in the goods, and in the case of services to either (i) resupply of the services or (ii) the cost of the resupply of the services.

3.48 To the maximum extent permitted by law, Microsoft and its affiliates and subsidiaries, disclaim all warranties, liability for damages (whether direct, indirect or consequential), and any remedies arising from, or relating to, your use of the Software Products.

3.49 The Software Products may contain technology that is not fault tolerant and is not designed, manufactured, or intended for use in environments or applications in which the failure of the Software Products could lead to death, personal injury, or severe physical, property or environmental damage.

3.50 In addition to any liability you may have to us, you will also be legally responsible directly to Microsoft for any breach of these terms.

For the purpose of this clause:

Client Software means software that allows a Device to access or utilize the services or functionality provided by the Server Software, and includes the Microsoft(r) Outlook(r) 2003 software.

Device means each of a computer, workstation, terminal, handheld PC, pager, telephone, personal digital assistant, "smart phone" or other electronic device.

Redistribution Software means certain "sample", "redistributable" and/or software development ("**SDK**") software code and tools.

Schedule - means the attached BigPond Premium Mail specific terms schedule.

Server Software means software that provides services or functionality on a computer acting as a server.

Software Products means the Microsoft software provided by us as part of the services and which may include associated media, printed materials, and "online" or electronic documentation and any incorporated images, photographs, animations, video, audio, music, text and "applets".

Your obligations

3.51 You must:

(a) be the same person as the customer of the BigPond Internet service to which this service relates;

(b) pay all fees and charges associated with your use of the service;

(c) promptly tell us if you believe or suspect that the service has been compromised or is being used in a manner that breaches these terms; and

(d) regularly check your default email address allocated by us for messages about your service (or, if you have arranged for emails sent to your default email address

to be forwarded to an alternate email address, you must check that alternate email address).

3.52 The service is only provided to you for so long as you continue to take the BigPond Internet service to which the service relates; and

3.53 We will use due care and skill in providing the service. There may also be other non-excludable statutory guarantees, implied conditions or warranties under consumer protection laws (such as the Competition & Consumer Act 2010 and State and Territory Fair Trading Acts) that cannot be excluded which may apply to goods or services we supply to consumers, including that services be fit for their purpose. However, due to the nature of the service, we do not promise that it will be continuous, accessible at all times or fault-free.

Commencement and termination

3.54 You may subscribe to additional services or cancel the service at any time. However, any cancellation will not become effective until the first day of your next monthly billing cycle for the service. If you have been migrated to BigPond's new environment, termination will take effect immediately after we receive and process your cancellation request.

3.55 We may terminate your service:

(a) immediately, if we reasonably suspect that you have materially breached these terms in a way that cannot be remedied; or

(b) if we reasonably suspect you have materially breach these terms in a way that can be remedied, but you do not remedy the breach within 14 days of us telling you to do so; or

(c) at any time effective at the end of your monthly billing cycle, by giving you at least 30 days' prior written notice.

3.56 If your BigPond Internet service to which the service relates is suspended, disconnected or terminated, then the service may also be suspended, disconnected or terminated.

3.57 If the service under these terms is suspended, disconnected or terminated, the liability of each party (if any) is set out in this clause 5.

3.58 If your service under these terms is terminated, any software licences granted to you under these terms in relation to your service will immediately terminate.

Changing these terms

3.59 Except as set out in clause 3.60, we can change these terms (including the charges) at any time without notice.

3.60 If we consider that a change would cause you detriment, we will tell you about the change by email, post or facsimile at least 30 days before the change will take effect.

3.61 If you do not tell us that you wish to terminate the service within 14 days after receiving notice of a change under clause 5.60 and you pay the charges for the service provided to you after our notice, the change will apply to you.

3.62 When we tell you about changes to Our Customer Terms under clause 5.60, unless specified otherwise in the clause, we can do so by: bill message, bill insert, direct mail or email (if you have an email address and have agreed for us to tell you about changes to Our Customer Terms by email). In addition to this notice, we may also publish a notice in a national newspaper.

3.63 If you experience a problem with your service, you should tell our Customer Service Centre on the number set out on the BigPond website.

3.64 We will use all reasonable efforts to rectify any problem notified to us as soon as possible.

Limitation of liability

3.65 Your service is supplied on the terms expressly set out and subject to non-excludable rights under consumer protection laws. Other representations or statements we make to you, whether in person, over the phone or in advertising or other materials you received, are not part of these terms. However, you may have other legal rights in relation to those representations.

3.66 Clauses 5.67, 5.68 and 5.69 apply to you only if you are a Residential Customer.

3.67 We accept our liability to you if we breach these terms or act negligently under the principles applied by the courts or breach any non-excludable right under consumer protection laws, except as set out in clauses 5.68 and 5.69.

3.68 As you have taken up the service predominately for personal, domestic or household use, we do not accept liability for any business related losses that result from the use of the service. However, we will accept that liability if it cannot be excluded under any legislation.

3.69 We are not liable for any loss to the extent that it is caused by you, for example, through your negligence or breach of these terms.

3.70 Clauses 5.71, 5.72, 5.73, 5.74, 5.75 and 5.76 apply to you only if you are a Business Customer.

3.71 Given the nature of telecommunications systems (including the service's reliance on systems not owned or controlled by us) we cannot promise that the service will be continuous or fault free. Accordingly, if lawful to do so under consumer protection laws, we limit our liability to you for losses resulting from any interruption or delay to your service to an amount equal to the service charges billed for the affected service for the period of the interruption or delay.

3.72 Subject to clause 3.75, we accept liability arising from our breach of contract or negligence:

(a) for any personal injury or death to you, your employees, agents and contractors in relation to the supply of the service;

(b) for any damage to your real or tangible property resulting from the supply of the service, but we limit our liability to our choice of repairing or replacing the property or paying the cost of repairing or replacing it; and

(c) unless clause 5.71 applies, for any other cost or expense you reasonably incur that is a direct result of, and flows naturally from, such breach or negligence (but excludes loss of profits, likely savings and data), but we limit our liability, provided it is lawful to do so for all such claims in aggregate to the total amount payable to us under these terms in respect of the first year of these terms.

3.73 Other than for the liability we accept under this clause 5, and for liability that cannot be lawfully excluded or limited under consumer protection laws, we exclude all other liability whether to you or a third party for breach of contract, negligence or breach of any other law. For any liability which cannot lawfully be excluded as it is under this clause 8, but can be limited, our liability is limited to resupplying or paying the cost of resupplying services and repairing, replacing or paying the cost of repairing or replacing goods.

3.74 Notwithstanding anything else in this clause 5, our liability will be reduced to the extent the loss or damage is caused by you, your employees, agents or contractors.

3.75 We will not be responsible for any loss or damage arising from circumstances outside our reasonable control.

3.76 You are liable to us if you breach these terms or act negligently under the principles applied by the courts. However, you are not liable for any loss we suffer to the extent that it is caused by us, for example, through our negligence or breach of these terms.

For the purposes of this clause:

Business Customer means a customer who is not a Residential Customer.

Loss means loss or damage of any kind, however caused, whether in contract, tort (including negligence), under any statute or otherwise arising from or related in any way to these terms or its subject matter.

Residential Customer means a customer who takes up the service predominantly to use for personal, household or domestic use or consumption.

Privacy

3.77 We collect, use and disclose personal information as set out in our "Protecting Your Privacy" Statement. The current version of our Privacy Statement is available at http://www.telstra.com.au/privacy/privacy_statement.html.

Transferring your service

3.78 You may not transfer your rights and obligations in respect of the service or under these terms without our prior consent (which we will not unreasonably withhold).

3.79 We may transfer or novate any of our rights or obligations under these terms to a reputable, credit worthy third party who agrees to be bound by our obligations under these terms. If we do so, we will try to notify you beforehand (otherwise we will tell you within 30 days after the transfer).

Taxes

3.80 The charges may not include all taxes. You must pay us on request any stamp and other duties, fees, taxes (including GST) and charges payable on:

(a) these terms; and

(b) any payment, receipt or other transaction arising out of these terms.

3.81 GST may be imposed on a supply we make to you under these terms. Unless the consideration payable for the supply is expressed to include GST, you must pay on our demand an additional amount to cover the GST. We will issue a Tax Invoice to you for any supply on which GST is imposed.

In this clause, "GST" and "Tax Invoice" have the same meaning as in the A New Tax System (Goods and Services Tax) Act 1999 (Cth).

General terms

3.82 We are not to be taken to waive any of our rights under these terms merely because we do not exercise them or delay in exercising them.

3.83 These terms are governed by the laws of the State or Territory in Australia in which you reside. Nothing in these terms, or any actions we take under it constitute a submission by us to any foreign jurisdiction.

3.84 Clauses in this section 5 relating to limitation of liability, privacy , taxes and general terms survive termination of these terms (regardless of any other clauses that may survive termination).

3.85 If we need to tell you of any matters relating to these terms, we may use email to your default email address allocated by us, or post or fax.

4 Domain names

Restrictions on domain names

4.1 Your domain name must not be:

(a) on a reserved list; or

(b) in breach of our acceptable use policy set out in Part A - General Terms for BigPond services of the BigPond service section of Our Customer Terms; or

(c) that of the applicable Registrar.

See www.bigpond.com.au for more information about domain names

Limitations of the service

4.2 The service is not available if you are a Telstra wholesale customer or an end user of a Telstra wholesale customer.

Domain Name Registration

4.3 If requested by you, we will, as your agent, apply for the domain name requested by you ("Requested Domain Name"). We will use reasonable efforts to process Domain Name application within 12 working days. Actual turnaround times may be affected by delays caused by the relevant Domain Name authority.

4.4 We do not guarantee that you will be successful in your application for the Requested Domain Name.

4.5 If the application for the Requested Domain Name is successful, we will become the Delegated Domain Administrator ("DDA") for the then Registered Domain Name.

4.6 If you want to transfer the delegation of their domain names ("re-delegation") to Telstra BigPond, you can request re-delegation by visiting http://telstra.com/domainnames/mydomains.

Domain Name Management

4.7 Where we become the delegated domain name administrator for the Requested Domain Name pursuant to clause 7.3, we will automatically direct to a Telstra BigPond Internet Server all electronic mail messages received by us and addressed to your Registered User using the Requested Domain Name.

4.8 Telstra BigPond does not currently offer domain mapping to the free web personal site.

Charges

4.9 If we apply to register the Requested Domain Name provide Domain Name Management, you must pay us the applicable Domain Name Registration Fee and/or Domain Name Management Fee as set below. The Domain Name Registration Fee and Domain Name Hosting Fee are inclusive of any government taxes or charges.

Domain type	Registration term	Registration fee	Monthly management fee
.com.au .net.au	2 years	**$85.00**	**$12.50**
.edu.au .gov.au .org.au	n/a	**n/a**	**n/a**
.com .net .org .biz .info	2 years	**$85.00**	**$12.50**
.name	1 year	**$65.00**	**$12.50**

The registration fee is payable for new registrations; domain transfers or registration renewals.

Renewal of Domain Name Registration and Management Fees

4.10 If:

(a) we are the DDA of the your Registered Domain Name at the scheduled time of expiry of the registration; and

(b) you are, at that time, the owner of the Registered Domain Name;

we will send a reminder email for you to renew online (http://telstra.com/domainnames/mydomains) before the expiry date. If you do not respond by the expiry date, a cancellation email will be sent to you to check whether you want to renew or not. Within 5 working days after the expiry date, if you do not respond that you want to renew, we will remove your domain name from the Telstra Domain Name System. Once we have successfully renewed the domain name if requested by you, you must pay us the Domain Name Renewal Fee.

4.11 We will not renew the Registered Domain Name under clause 4.10 if you tell us prior to the scheduled time of expiry that you do not want us to renew your Domain Name.

Warranties

4.12 You warrant that in selecting its chosen domain name you will not infringe any third party intellectual property rights.

4.13 You warrant that you will use the domain name for lawful purposes.

Liability

4.14 The terms that apply to you and us are expressly set out in these terms and those implied by laws that cannot be excluded by us. Other representations or statements we make to you, whether in person, over the phone or in advertising or other materials you received, are not part of these terms. However, you may have other legal rights in relation to those representations.

4.15 If you acquire the services under these terms for personal, domestic or household use, you are a Residential Customer and clauses 7.16, 7.17, 7.18 and 7.25 apply.

4.16 We accept liability to you if we breach these terms act negligently under the principles applied by the courts or breach any non-excludable right under consumer protection law, except as set out in clauses 14.48 and 14.49.

4.17 As you have taken up the service predominately for personal, domestic or household use, we do not accept liability for any business related losses that result from the use of the service. However, we accept that liability if it cannot be excluded under any legislation.

4.18 We are not liable for any loss to the extent that it is caused by you, for example, through your negligence or breach of these terms.

4.19 If you are not a Residential Customer, clauses 7.20, 7.21, 7.22, 7.23, 7.24 and 7.25 apply.

4.20 Given the nature of telecommunications systems (including the service's reliance on systems not owned or controlled by us) we cannot promise that the service will be continuous or fault free. Accordingly, if it is lawful to do so under consumer protection laws, we limit our liability to you for losses resulting from any interruption or delay to your service to an amount equal to the service charges billed for the affected service for the period of the interruption or delay.

4.21 Subject to clause 7.24, we accept liability arising from our breach of contract or negligence:

(a) for any personal injury or death to you, your employees, agents and contractors in relation to the supply of the service;

(b) for any damage to the your real or tangible property resulting from the supply of the service, but we limit our liability to its choice of repairing or replacing the property or paying the cost of repairing or replacing it; and

(c) unless clause 7.20 applies, for any other cost or expense you reasonably incur that is a direct result of, and flows naturally from, such breach or negligence (but excludes loss of profits, likely savings and data), but we limit our liability provided it is lawful to do so for all such claims in aggregate to the total amount payable to us under these terms in respect of the first year of these terms.

4.22 Other than for the liability we accept under clauses 7, and for liability that cannot be lawfully excluded or limited under consumer protection laws, we exclude all other liability whether to you or a third party for breach of contract, negligence or breach of any other law. For any liability which cannot lawfully be excluded as it is under clauses 9, but can be limited, our liability is limited to resupplying or paying the cost of resupplying services and repairing, replacing or paying the cost of repairing or replacing goods.

4.23 Notwithstanding anything else in this clause 7, our liability will be reduced to the extent the loss or damage is caused by you, your employees, agents or contractors.

4.24 We will not be responsible for any loss or damage arising from circumstances outside its reasonable control.

4.25 You are liable to us if you breach these terms or act negligently under the principles applied by the courts. However, you are not liable for any loss you suffer to the extent that it is caused by us, for example, through our negligence or breach of these terms.

For the purposes of this clause:

Business Customer means a customer who is not a Residential Customer.

Loss means loss or damage of any kind, however caused, whether in contract, tort (including negligence), under any statute or otherwise arising from or related in any way to these terms or its subject matter.

Residential Customer means a customer who takes up the service predominantly to use for personal, household or domestic use or consumption.

Termination

4.26 Either party may terminate this service by 30 days' notice in writing (including any email) to the other party.

4.27 We may terminate your service if you are no longer a customer of Telstra BigPond, or if you fail to pay the applicable Domain Name Registration Fee and/or Domain Name Hosting Fee, but will tell you before doing so.

4.28 On termination or expiry of your service for any reason, we may delete your Registered Domain Name from any storage media.

4.29 We reserve the right to suspend your service without telling you first if you breach clause 7.26 or 7.27,, as these are material breaches of these terms which cannot be remedied.

4.30 You may also terminate the service if:

(a) we are in serious breach of the applicable parts of Our Customer Terms; and

For example, we will be in serious breach if we breach our obligation to use reasonable care and skill in providing the service.

(b) you have notified us in writing of our breach and we have failed to remedy the breach within 30 days of your notice (if the breach can be remedied). If the breach is something which cannot be remedied, you may immediately terminate your service with notice to us.

4.31 If you terminate the service under clause 7.30 during your minimum term you will not have to pay us the cancellation fee set out in the charges section for your plan.

Your obligation to pay a cancellation fee does not limit or affect the rights you may have under the *Trade Practices Act 1974 (*Cth) in relation to the equipment or the service.

Miscellaneous

4.32 A provision of, or a right created under these terms, may not be waived except in writing signed by the party granting the waiver, or varied except in writing signed by the parties.

4.33 These terms and the transactions contemplated by these terms are governed by the laws in force in the State or Territory in Australia in which you reside.

4.34 You may not assign your rights and obligations under these terms without our prior written consent (which we will not unreasonably withhold).

4.35 We may transfer or novate any of our rights or obligations under these terms to a reputable, creditworthy third party who agrees to be bound by our obligations under these terms. If we do so, we will try to notify you beforehand (otherwise we will tell you within 30 days after the transfer).

4.36 You must not alter, cancel or withdraw any requests for domain name applications until registration has occurred or the application has been rejected.

4.37 Some Registered Domain Names may

(a) operate a mail forwarding facility; or

(b) publish customer and domain name information on a third party database. We do not operate, make no representations about, and are not responsible for mail forwarding facility or publication of information on a third party database.

5 Family Website hosting and Small Business hosting

Availability

5.1 We have withdrawn this service from sale to new customers. Existing customers will not be able to make changes to their existing pricing plan.

General

5.2 We will provide you with the service using shared infrastructure. The features of your service, and the levels of storage space and traffic that are permitted, depend upon your selected plan and are specified in the charges section below.

5.3 We will provide you with at least one logon name and password ("VS" number) to allow you to access the Mission Control panel (which may be used by you to configure various features of your service).

5.4 We will archive your data onto backup mechanisms on a regular basis for the purposes of disaster recovery. In the event of equipment failure or data corruption, we will use reasonable endeavours to restore your data from the last known good archive. Notwithstanding our backup regimes, you must maintain a recent copy of your data at your premises at all times. You will ensure that all of your data is accessible by us at the

time that a backup is to be carried out (including ensuring that files are not locked or in use during this time). Any of your data that is not accessible by us at the time that a backup is carried out will not be backed up. Due to technological limitations, we cannot promise that, and despite our reasonable care, backups will: (a) occur on every scheduled occasion, (b) be complete; or (c) be uncorrupted. We will not be liable for incomplete, out-of-date, corrupt or otherwise deficient data recovered from our backups where we have acted with reasonable care.

5.5 You are responsible for developing, installing and maintaining your data. You must have appropriate and compatible equipment, software and Internet access to upload your data to our systems.

5.6 You are solely responsible for dealing with persons who access your data, and must not refer complaints or inquiries in relation to your data to us.

5.7 You must adopt appropriate measures to ensure the security of your logon name, password and data.

5.8 You must advise us in a timely manner if you have reason to suspect that the service is being used contrary to these terms.

5.9 We encourage you to use appropriate warnings and labelling systems for any of your data that is likely to be considered unsuitable for children under Australian law and associated classification guidelines.[1]

5.10 The service is provided from data centres in Australia. We will determine, in our absolute discretion, the location from which your service is provided from time to time.

5.11 You grant to us all rights, consents, permissions and licences necessary to enable us and our subcontractors and suppliers to legally view, copy and store your data for the sole purpose of performing our obligations under these terms.

5.12 No title in the hardware, infrastructure or facilities used by us to deliver the service passes to you at any time.

5.13 If we provide you with software and terms accompany it, then we provide that software to you on these terms.

5.14 If we provide you with software and no terms accompany it, then:

[1] For more information please consult the Internet Industry Association guidelines at http://www.iia.net.au/guideuser.html or the Australian Communications and Media Authority at http://www.cybersmartkids.com.au/.

(a) we grant you a non-exclusive, non-transferable licence to use the software for the sole purpose of using the service on these terms;

(b) you must not use, or permit any person to use, the software in any way that is not permitted by these terms; and

(c) without limiting clause 5.14(b), you must not:

a) use the software on behalf of, or for the benefit of, any other person; or

b) disassemble, reverse engineer or create more than one copy of the software (unless you have a statutory right to disassemble, reverse engineer or create more than one copy of the software, in which case you must only do so to the extent permitted by your statutory right).

Family website hosting plans

5.15 The Family website hosting plans include the following features:

(a) an allocated amount of disk space;

(b) allowance for friends and family to download a certain amount from your website each month; and

(c) our complimentary Do It Yourself WebSite Builder, to help you create a professional-looking online family album.

5.16 Only BigPond members are eligible for Family WebSite plans. These plans do not include telephone technical support. Mission Control provides each user with online technical support via the Job Logging System.

5.17 Further details for the family website hosting plans are set out in the charges section below.

Small business website hosting plan

5.18 The Small business website hosting plan includes the following features:

(a) 20MB of disk space;

(b) pre-written Common Gateway Interface (CGI) scripts;

(c) allowance for customers to download up to 300MB from your website each month; and

(d) our complimentary Do It Yourself Business WebSite Builder, to help you create a professional-looking site.

Limitations of the service

5.19 The service is not available if you are a Telstra wholesale customer or an end user of a Telstra wholesale customer.

Service and Maintenance

5.20 If you experience a problem with the service, you should report it to us by using the Mission Control panel.

5.21 We may perform scheduled maintenance to the systems that we use to provide the service. We will attempt to perform all scheduled maintenance at times which will affect the fewest customers. If the scheduled maintenance requires the service to be unavailable for a continuous period of greater than 30 minutes, we will post details of the times during which the scheduled maintenance is due to occur on the Web Host System News at least 48 hours prior to the maintenance. It is very important that you check the Web Host System News regularly.

5.22 We may perform unscheduled maintenance to the systems that we use to provide the service. If the unscheduled maintenance requires the service to be unavailable for a continuous period of greater than 30 minutes, we will try to post details of the unscheduled maintenance on the Web Host System News beforehand (otherwise we post the details after the maintenance has been completed).

5.23 We may migrate your web site to a new operating system platform if any of our suppliers cease to provide support for the legacy operating system, if the server used to provide the service fails, or if we determine that the server has (or may) become unreliable. We will tell you beforehand if we intend to migrate your web site to a new operating system platform.

Charges

5.24 You must pay the set-up fees and monthly fees set out below in advance. You must pay the additional fees set out below in arrears. The monthly subscription fee may not be reduced if your service is cancelled part way through your billing cycle. If you have been migrated to BigPond's new environment, the monthly fee will be pro-rated so that you will only pay the monthly fee for the part of the month for which you subscribed to the service.

5.25 If we issue you with an invoice for any fees payable under these terms, you must pay the invoice within 14 days after the invoice date. If you elect to receive online invoices from

us: (a) we may provide you with the online invoices by making them available at the Mission Control panel; and (b) you must regularly check the Mission Control panel for your invoices.

5.26 You must pay all fees relating to the use of your logon name and password (whether or not that use was authorised by you).

5.27 You must also pay:

(a) all telecommunications costs and charges arising from or in connection with the service; and

(b) all government taxes, duties and levies (if any) imposed on either you or us in respect of the service or any other service or goods supplied (excluding taxes payable on our overall income).

5.28 Without limiting clause 5.27(b), if GST is imposed on any supply we make to you under these terms, and the fees payable by you for the supply are not inclusive of GST, you authorise us to charge you an amount of GST in addition to the fees payable by you, calculated by multiplying those fees by the prevailing GST rate. You must pay the amount of GST at the same time and in the same manner as the fees are payable.

5.29 If you provide us with your credit card details, you authorise us to charge all fees and charges to your credit card, and to disclose your credit card details to, and obtain information from, any financial institution or credit card issuer to verify the credit card details that you provide to us. You also authorise us to take steps to verify that there is sufficient credit on your credit card account to meet likely fees.

5.30 You consent to us obtaining a credit reporting agency report containing personal information about you (as well as information concerning commercial creditworthiness and activities) for the purpose of assessment by us of an application for credit (whether commercial or personal) or for the purpose of the collection of payments which are overdue.

5.31 We collect, use and disclose personal information as set out in our "Protecting Your Privacy" Statement. The current version of our Privacy Statement is available at http://www.telstra.com.au/privacy/privacy_statement.html.

Charges for family website hosting

5.32 We charge you the following for family website hosting services.

5.33 The monthly subscription fee is payable in full and may not be reduced if your service is cancelled part way through your billing cycle.

5.34 You can purchase additional web space if required for an additional fee.

5.35 The monthly data limit is the maximum amount of data that can be downloaded from your site each month (by other users). A per-MB fee will be charged if this allowance is exceeded. Unused Monthly Usage is forfeited at the end of each month.

5.36 Additional Domain Name charges apply.

Plan	Disk Space	Monthly data limit	Monthly fee	Additional download charge	Additional disk space
Family 5	5MB	100MB	**$2.95**	**13.2¢/MB**	**$2.00/MB**
Family 10	10MB	200MB	**$9.95**	**13.2¢/MB**	**$2.00/MB**
Family 15	15MB	250MB	**$14.95**	**13.2¢/MB**	**$2.00/MB**
Family 20	20MB	300MB	**$19.95**	**13.2¢/MB**	**$2.00/MB**

The type of website address for all plans is www.[yourwebsite].bigpondhosting.com

Charges for small business website hosting

5.37 We charge you the following for small business website hosting services.

5.38 Your web address can be (subject to availability): www.[YourDomainName].com.au OR www.[yourwebsite.bigpondhosting].com

5.39 Additional Domain Name charges apply.

5.40 Only BigPond Members are eligible for WebSite plans.

5.41 You can purchase additional web space if required for an additional fee.

5.42 The monthly data limit is the maximum amount of data that can be downloaded from your site each month. A per-MB fee will be charged if this allowance is exceeded. Unused Monthly Usage will be forfeited at the end of each month.

5.43 This plan does not include telephone technical support. Mission Control provides each user with online technical support via the Job Logging system

Part E – Additional services

Plan	Disk Space	Monthly data limit	Monthly fee	Additional download charge	Additional disk space
Small Business Website	20MB	300MB	**$19.95**	**13.2¢/MB**	**$2.00/MB**

Warranties

5.44 While we use due care and skill in providing the service to you, there may also be other non-excludable statutory guarantees, implied conditions or warranties under consumer protection laws (such as Competition & Consumer Act 2010 and State and Territory Fair Trading Acts) that cannot be excluded which may apply to goods or services we supply to consumers, including that services be fit for their purpose. However, due to the nature of the service, we do not promise that:

(a) the service will be uninterrupted or error free;

(b) the service will meet your requirements; or

(c) the service will be free from external intruders (hackers), virus or worm attack, denial of service attack, or other persons having unauthorised access to the services or our systems.

5.45 You warrant that:

(a) you have the power to enter into and observe your obligations under these terms;

(b) you will conduct such tests and computer virus scanning as may be necessary to ensure that data uploaded by you onto, or downloaded by you from, our systems does not contain any computer virus and will not in any way, corrupt the data or systems of any person;

(c) you will keep secure any passwords used with the service; and

(d) you have, and will maintain, the necessary authority to grant the rights, consents, permissions and licences in clause 8.11.

Liability

5.46 Your service is supplied on the terms that are expressly set out and subject to non-excludable rights under consumer protection laws. Other representations or statements we make to you, whether in person, over the phone or in advertising or other materials you received, are not part of these terms. However, you may have other legal rights in relation to those representations.

5.47 Clauses **Error! Reference source not found.**, **Error! Reference source not found.**and REF _Ref392173545 \r \h **Error! Reference source not found.** apply to you only if you are a Residential Customer.

5.48 We accept our liability to you if we breach these terms act negligently under the principles applied by the courts or breach any non-excludable right under consumer protection law, except as set out in clauses 14.48 and 14.49.

5.49 As you have taken up the service predominately for personal, domestic or household use, we do not accept liability for any business related losses that result from the use of the service. However, we will accept that liability if it cannot be excluded under any legislation.

5.50 We are not liable for any loss to the extent that it is caused by you, for example, through your negligence or breach of these terms.

5.51 Clauses **Error! Reference source not found.**, **Error! Reference source not found.**, REF _Ref392173576 \r \h **Error! Reference source not found.**, **Error! Reference source not found.**, **Error! Reference source not found.**and **Error! Reference source not found.** apply to you only if you are a Business Customer.

5.52 Given the nature of telecommunications systems (including the service's reliance on systems not owned or controlled by us) we cannot promise that the service will be continuous or fault free. Accordingly, if it is lawful to do so under consumer protection laws, we limit our liability to you for losses resulting from any interruption or delay to your service to an amount equal to the service charges billed for the affected service for the period of the interruption or delay.

5.53 Subject to clause 8.55, we accept liability arising from our breach of contract or negligence:

(a) for any personal injury or death to you, your employees, agents and contractors in relation to the supply of the service;

(b) for any damage to your real or tangible property resulting from the supply of the service, but we limit our liability to our choice of repairing or replacing the property or paying the cost of repairing or replacing it; and

(c) unless clause 8.51 applies, for any other cost or expense you reasonably incur that is a direct result of, and flows naturally from, such breach or negligence (but excludes loss of profits, likely savings and data), but we limit our liability provided it is lawful to do so for all such claims in aggregate to the total amount payable to us under these terms in respect of the first year of these terms.

5.54 Other than for the liability we accept under clauses 5.45-**Error! Reference source not f ound.** and for liability that cannot be lawfully excluded or limited under consumer protection laws we exclude all other liability whether to you or a third party for breach of contract, negligence or breach of any other law. For any liability which cannot lawfully be excluded as it is under clauses 5.45-**Error! Reference source not found.**, but can be l imited, our liability is limited to resupplying or paying the cost of resupplying services and repairing, replacing or paying the cost of repairing or replacing goods.

5.55 Notwithstanding anything else in clauses 5.45-**Error! Reference source not found.**, our l iability will be reduced to the extent the loss or damage is caused by you, your employees, agents or contractors.

5.56 We will not be responsible for any loss or damage arising from circumstances outside our reasonable control.

5.57 You are liable to us if you breach these terms or act negligently under the principles applied by the courts. However, you are not liable for any loss we suffer to the extent that it is caused by us, for example, through our negligence or breach of these terms.

For the purposes of this clause:

Business Customer means a customer who is not a Residential Customer.

Loss means loss or damage of any kind, however caused, whether in contract, tort (including negligence), under any statute or otherwise arising from or related in any way to these terms or its subject matter.

Residential Customer means a customer who takes up the service predominantly to use for personal, household or domestic use or consumption.

Term, Suspension and Termination

5.58 Either party may terminate the service at any time by providing the other party with at least 30 days' written notice.

5.59 If the service is terminated for any reason.

(a) you must immediately pay all fees and charges owing up to the date of termination;

(b) we may delete all of your data from our systems; and

(c) you must immediately delete from your systems all copies of all software.

5.60 We may from time to time without notice:

(a) suspend the service during any technical failure, modification or maintenance of the service, provided that we use reasonable endeavours to resume the service as soon as reasonably practicable. If this happens, our liability to you is set out under this clause. If we need to suspend your service under this clause, usually we will give you 24 hours' notice, unless the maintenance is urgent, in which case we will give you as much notice as we reasonably can. We will try to ensure that the limitation or suspension is at night and for as short a period as is reasonable possible; or

(b) suspend or disconnect the service or deny access to the service if we reasonably consider that you have failed to comply with any provision of these terms (including failure to pay fees or charges due), or you do, or allow to be done, anything which in our opinion may have the effect of jeopardising the operation of the service and either:

a) you do not remedy your non-compliance 14 days after we tell you to do so (if the non-compliance is of a kind that can be remedied); or

b) immediately (if the non-compliance is of a kind that cannot be remedied),

c) or you do, or allow to be done, anything which in our reasonable opinion have the effect of jeopardising the operation of the service.

5.61 If your BigPond Internet service to which these services relate is suspended, disconnected or terminated, then these services may also be suspended, disconnected or terminated.

5.62 You remain liable to pay all fees and charges set out in these terms during any period of suspension.

5.63 We may remove, amend or alter any data:

(a) upon being made aware of any claim or allegation, or any court order, judgment, determination or other finding of a court or other competent body, that the data is illegal, defamatory, offensive or in breach of a third party's rights (including intellectual property rights and moral rights); or

(b) if we reasonably consider that you have failed to comply with any provision of these terms.

We may not be able to tell you of this beforehand, but will give you notice within 14 days after the removed/amended or altered data.

5.64 We are not required to provide you with a copy of your data if:

(a) we suspend or disconnect your service or deny access to the service;

(b) remove, amend or alter your data; or

(c) these terms are terminated (for any reason).

5.65 If we provide you with a copy of your data, then we are entitled to charge you an additional fee calculated at the hourly rate set out in the Plan Table for the time taken for us to recover and provide you with that data.

Additional terms

5.66 You must comply with:

(a) our acceptable use policy; and

(b) our operational procedures for the service which are set out in the Mission Control User Guide at https://mc-au.server-secure.com

5.67 If there is any inconsistency between a provision in a document listed in this clause 8 and a provision in another document listed in this clause 8, then the provision in the document listed first below prevails:

(a) these terms;

(b) our acceptable use policy and

(c) our operational procedures for the service which are set out in the Mission Control User Guide at https://mc-au.server-secure.com.

General

5.68 Either party may exercise a right, power or remedy at its discretion and separately or concurrently with another right, power or remedy. Failure by a party to exercise, or delay in exercising, a right, power or remedy does not prevent its exercise.

5.69 A provision of, or a right created under these terms, may not be waived except in writing signed by the party granting the waiver.

Changes to these terms

5.70 Except as set out in clause 8.70, we can change these terms at any time without notice.

5.71 If we consider that a change would cause you detriment, we will tell you about the change by email, post or facsimile at least 30 days before the change will take effect.

5.72 If you do not tell us that you wish to terminate the service within 42 days after receiving notice of a change under clause 8.70 and you pay the charges for the service provided to you after our notice, the change will apply to you. If you choose to cancel your service under this clause, we will refund you any unused portion of your monthly charges.

5.73 When we tell you about changes to Our Customer Terms under clause 8.70, unless specified otherwise in the clause, we can do so by bill message, bill insert, direct mail or email (if you have an email address and have agreed for us to tell you about changes to Our Customer Terms by email). In addition to this notice, we may also publish a notice in a national newspaper. These terms are governed by the law in force in the State or Territory of Australia in which you reside.

5.74 Clauses **Error! Reference source not found.**, **Error! Reference source not found.**, REF _Ref392173790 \r \h **Error! Reference source not found.**, 5.58, 5.63 and this clause survive the termination (for any reason) of these terms.

6 Premium Website Hosting and add ons

General

6.1 We will provide you with the service using shared infrastructure. The features of your service, and the levels of storage space and traffic that are permitted, depend upon your selected plan and what add ons you select and are specified below.

6.2 We will provide you with at least one logon name and password ("VS" number) to allow you to access the Mission Control panel (which may be used by you to configure various features of your service).

6.3 We will archive your data onto backup mechanisms on a regular basis for the purposes of disaster recovery. In the event of equipment failure or data corruption, we will use reasonable endeavours to restore your data from the last known good archive. Notwithstanding our backup regimes, you must maintain a recent copy of your data at your premises at all times. You will ensure that all of your data is accessible by us at the time that a backup is to be carried out (including ensuring that files are not locked or in use during this time). Any of your data that is not accessible by us at the time that a backup is carried out will not be backed up. We do not warrant that backups will:

(a) occur on every scheduled occasion;

(b) be complete; or

(c) be uncorrupted. We will not be liable for incomplete, out-of-date, corrupt or otherwise deficient data recovered from our backups where we have acted with reasonable care.

6.4 You are responsible for developing, installing and maintaining your data. You must have appropriate and compatible equipment, software and Internet access to upload your data to our systems.

6.5 You are solely responsible for dealing with persons who access your data, and must not refer complaints or inquiries in relation to your data to us.

6.6 You must adopt appropriate measures to ensure the security of your logon name, password and data.

6.7 You must advise us in a timely manner if you have reason to suspect that the service is being used contrary to these terms.

6.8 We encourage you to use appropriate warnings and labelling systems for any of your data that is likely to be considered unsuitable for children under Australian law and associated classification guidelines

6.9 The service is provided from data centres in Australia. We will determine, in our absolute discretion, the location from which your service is provided from time to time.

6.10 You grant to us all rights, consents, permissions and licences necessary to enable us and our subcontractors and suppliers to legally view, copy and store your data for the sole purpose of performing our obligations under these terms or any law.

6.11 No title in the hardware, infrastructure or facilities used by us to deliver the service passes to you at any time.

6.12 We grant you a non-exclusive, non-transferable licence to use the software for the sole purpose of using the service on these terms.

6.13 You must not use, or permit any person to use, the software in any way that is not permitted by these terms.

6.14 Without limiting clause 9.13, you must not:

(a) use the software on behalf of, or for the benefit of, any other person; or

(b) disassemble, reverse engineer or create more than one copy of the software (unless you have a statutory right to disassemble, reverse engineer or create more than one copy of the software, in which case you must only do so to the extent permitted by your statutory right).

Limitations of the service

6.15 The service is not available if you are a Telstra wholesale customer.

Premium website hosting plans

6.16 The Premium Hosting plans include the following:

(a) an allocated amount of disk space;

(b) up to 9,999 mailboxes for your staff and incoming mail streams (enquiries, info, jobs, etc);

(c) pre-written Common Gateway Interface (CGI) scripts;

(d) allowance for customers and prospects to download an allocated amount of images and information each month; and

(e) website builder.

6.17 Details of Premium Hosting Plans are set out in the charges section below.

Charges for premium hosting

6.18 You must pay the set-up fees and monthly fees set out below in advance. You must pay the additional fees set out below in arrears.

6.19 You must pay fees for all add ons you select in accordance with the applicable add on terms.

6.20 If we issue you with an invoice for any fees payable, you must pay the invoice within 14 days. If you elect to receive online invoices from us:

(a) we may provide you with the online invoices by making them available at the Mission Control panel; and

(b) you must regularly check the Mission Control panel for your invoices.

6.21 You must pay all fees relating to the use of your logon name and password (whether or not that use was authorised by you).

6.22 You must also pay:

(a) all telecommunications costs and charges arising from or in connection with the service; and

(b) all government taxes, duties and levies (if any) imposed on either you or us in respect of the service or any other service or goods supplied (excluding taxes payable on our overall income).

6.23 Without limiting clause **Error! Reference source not found.**, if GST is imposed on any s upply we make to you under these terms, and the fees payable by you for the supply are not inclusive of GST, you authorise us to charge you an amount of GST in addition to the fees payable by you, calculated by multiplying those fees by the prevailing GST rate. You must pay the amount of GST at the same time and in the same manner as the fees are payable.

6.24 If you provide us with your credit card details, you authorise us to charge all fees and charges to your credit card, and to disclose your credit card details to, and obtain information from, any financial institution or credit card issuer to verify the credit card details that you provide to us. You also authorise us to take steps to verify that there is sufficient credit on your credit card account to meet likely fees.

6.25 You consent to us obtaining a credit reporting agency report containing personal information about you (as well as information concerning commercial creditworthiness and activities) for the purpose of assessment by us of an application for credit (whether commercial or personal) or for the purpose of the collection of payments which are overdue.

6.26 We collect, use and disclose personal information as set out in our "Protecting Your Privacy" Statement. The current version of our Privacy Statement is available at http://www.telstra.com.au/privacy/privacy_statement.html.

Part E – Additional services

6.27 We charge you the following for premium hosting services:

Plan	Disk Space	Monthly data limit	Set-up fee	Monthly fee	Additional download charge	Additional disk space
Premium Hosting 200	200MB	10000MB	**$64.00**	**$39.95**	**8¢/MB**	**$16.50/50MB** **44¢/MB**
Premium Hosting 500	500MB	20000MB	**$97.00**	**$65.95**	**8¢/MB**	**$16.50/50MB** **44¢/MB**
Premium Hosting 800	800MB	30000MB	**$105.00**	**$89.95**	**8¢/MB**	**$16.50/50MB** **44¢/MB**
Premium Hosting 3000	3000MB	40000MB	**$105.00**	**$329.95**	**The lesser of:** **a) 8¢/MB multiplied by the amount of excess download transferred from your website; and** **b) 10¢/MB multiplied by the total amount of**	**$16.50/50MB** **44¢/MB**

Plan	Disk Space	Monthly data limit	Set-up fee	Monthly fee	Additional download charge	Additional disk space
					data transferred to your website.	

6.28 We charge you the following for premium hosting services provided under old plans

Plan	Disk Space	Monthly data limit	Set-up fee	Monthly fee	Additional download charge	Additional disk space
Premium Hosting 100	100MB	1000MB	**$64.00**	**$39.95**	**8¢/MB**	**$16.50/50MB** **44¢/MB**
Premium Hosting 250	250MB	2000MB	**$97.00**	**$65.95**	**8¢/MB**	**$16.50/50MB** **44¢/MB**
Premium Hosting 400	400MB	3000MB	**$105.00**	**$89.95**	**8¢/MB**	**$16.50/50MB** **44¢/MB**
Premium Hosting 1500	1500MB	4000MB	**$105.00**	**$329.95**	**The lesser of:**	**$16.50/50MB**

Part E – Additional services

Plan	Disk Space	Monthly data limit	Set-up fee	Monthly fee	Additional download charge	Additional disk space
					a) 8¢/MB multiplied by the amount of excess download transferred from your website; and b) **10¢/MB multiplied by the total amount of data transferred to your website.**	**44¢/MB**

Part E – Additional services

6.29 Each plan includes up to 9999 mailboxes.

6.30 The monthly data limit is the maximum amount of data that can be downloaded from your site each month. A per-MB fee will be charged if this allowance is exceeded. Unused Monthly Usage will be forfeited at the end of each month.

6.31 Domain name charges are payable if you request us to register a domain on your behalf. Domain Name management services are $49/year per top level domain name and $135/year per 2 year period per .au domain name.

6.32 You do not have to be a BigPond Member to be eligible for Premium Hosting plans.

6.33 You can purchase additional web space if required for an additional fee. You must pay an additional disk space fee if your actual disk space exceeds the Maximum Disk Space for your plan unless you have purchased a 50MB additional disk space add on (see add on terms) and you do not exceed the additional disk space you purchase.

6.34 The monthly data limit is the maximum amount of data that can be downloaded from your site each month. A per-MB fee will be charged if this allowance is exceeded. Unused Monthly Usage will be forfeited at the end of each month.

6.35 If your selected plan is Premium Hosting 100, Premium Hosting 200, Premium Hosting 250, Premium Hosting 400, Premium Hosting 500 or Premium Hosting 800 and your actual data download in any month exceeds the Maximum Monthly data download for your plan, you must pay an additional fee calculated by multiplying the amount of excess data transferred from your website by the rate set out above.

6.36 If your selected plan is the Premium Hosting 1500 or Premium Hosting 3000 plan and your actual data download in any month exceeds the Maximum Monthly data download for your plan, you must pay an additional fees calculated using the formula set out in the table above.

Other charges

6.37 The changes for Data Recovery from backup tape are set out in the table below.

6.38 A monthly account keeping fee is payable if you elect to receive a monthly invoice rather than use the auto debit billing option. The monthly account keeping fee is $3.50 per customer account (identified by a unique 'vs' number) is set out in the table below.

6.39 Standard Website Builder is included in monthly hosting fee. Advanced Website builder is available for the fee set out in the table below.

Service	Price
Data Recovery from backup tape	**$135/hour**
Monthly account keeping fee	**$3.50/account**
Upgrade to Advanced Website Builder	**$5/month**

Add ons

6.40 You may apply to receive one or more add ons if you are Premium Hosting plan customer. If you change plans and are no longer eligible to receive an add on under your new plan, we may cease providing that add on to you.

Website builder add on

6.41 Website builder enable you to create, edit and manage your own website. Standard Website Builder is available as an Add-On to the Premium Hosting 200, 500, 800 and 3000 plans. Advanced Website Builder is available as an Add-On to the Premium Hosting 500, 800 and 3000 plans.

6.42 Content created using Advanced Website Builder cannot be migrated back to Standard Website Builder if you choose to downgrade (and will need to rebuild your website).

6.43 If you cancel your Premium Hosting service, all content created using Website Builder will be permanently erased.

6.44 If you use the eShop component of Advanced Website Builder, you may need to enter into separate agreements with third party service providers (eg e-commerce payment providers). We are not responsible for the conduct of any third party provider you contract with.

6.45 We charge you the following for website builder add on services:

Premium Hosting and Website Builder Plan Name	Usage Allowance	Monthly fee
Standard	200MB	**$39.95**
	500MB	**$65.95**
	800MB	**$89.95**
	3000MB	**$329.95**
Advanced	500MB	**$70.95**
	800MB	**$94.95**
	3000MB	**$334.95**

Cost includes the Premium Hosting plan and the Website Builder Add-On.

Business mail add-ons

6.46 Business mail add ons enable you to add mailboxes to extend your email system up to a maximum of 500 mailboxes.

6.47 The Business Mail add on products can only be used in conjunction with BigPond Premium Hosting services.

6.48 Your charges depend on whether you take up the service on a monthly or yearly basis.

6.49 We charge you the following for monthly business mail add on services:

Plan	Additional mailboxes	Monthly fee
Business Mail 10	10	**$22.00**
Business Mail 50	50	**$49.00**
Business Mail 100	100	**$99.00**
Business Mail 200	200	**$198.00**

Plan	Additional mailboxes	Monthly fee
Business Mail 500	500	**$495.00**

6.50 We charge you the following for yearly business mail add on services:

Plan	Additional mailboxes	Yearly fee
Business Mail 10	10	**$220.00**
Business Mail 50	50	**$495.00**
Business Mail 100	100	**$990.00**
Business Mail 200	200	**$1980.00**
Business Mail 500	500	**$4950.00**

6.51 [not used]

6.52 [not used[

6.53 [not used]

6.54 [not used]

6.55 [not used]

6.56 [not used]

6.57 [not used]

6.58 [not used]

Microsoft windows streaming media - on demand streaming add-on

6.59 The on demand streaming add on allows users to click on a link to listen and/or watch an audio or video file that you have uploaded.

6.60 This add-on is only available to customers who have the necessary software to produce media files in the format needed by the Premium Hosting Windows Media Streaming server. We do not supply any of this software.

6.61 Before you can upload a piece of audio or video to the servers, it must be encoded using On Demand Windows Media Streaming Audio and Video which you must obtain.

6.62 We charge you the following for Microsoft windows streaming media add on services:

Plan	**Outbound data allowance**	**Monthly fee**
Single Stream	500MB	**$16.00**
Five Streams	3000MB	**$55.00**
Ten Streams	6000MB	**$88.00**

6.63 You nominate the number of streams. Once the complimentary outbound data has been expended, additional data is charged at 13.2¢/MB.

Additional mailing lists add on

6.64 Additional mailing lists allow you to email up to 10000 subscribers from a single email address.

6.65 All premium hosting plan customers received one mailing list that allows you to send up to 1000 subscribers at no additional cost. You may pay extra to expand the number of subscribers up to 10000.

6.66 When you purchase Additional Mailing Lists or Additional Subscribers, you are not purchasing lists of names or email addresses - you are purchasing the ability to send email to all of the subscribers in your mailing list at once.

6.67 No email names or addresses are provided.

6.68 We charge you the following for additional mailing list add on services:

Plan	**Number of mailing list subscribers**	**Price**
Monthly plan	1000/month	**$11.00**

Plan	Number of mailing list subscribers	Price
Yearly plan	1000/year	**$110.00**

Additional security tokens

6.69 Each Premium hosting plan has an allocated number of tokens. Additional tokens may be purchased up to a maximum of 26 per plan.

6.70 We charge you the following for additional security token add on services:

Add on	Price
Additional security token	**$5.00/token**

Additional data sources add-on

6.71 Data source names allow you to connect your website to a SQL Service 2000 or 2008 database.

6.72 The Additional data sources add on is not available for Premium hosting 100 or 2000 plan customers.

6.73 Data source names can be created upon request, however we strongly recommend you utilise Object Linking and Embedding Database connection methods.

6.74 We charge you the following for additional data sources add on services:

Add on	Price
Additional data sources add-on	**$66.00/DSN**

Macromedia coldfusion mx add-on

6.75 The ColdFusion add-on is only available to BigPond Premium Hosting 800 and BigPond Premium Hosting 3000 plan customers with ColdFusion Studio.

6.76 To request that this Macromedia ColdFusion MX Add-On be added to your service, you will need to access the 'Add Product' feature inside Mission Control.

6.77 ColdFusion Studio is not provided by us. You must own a compatible version of ColdFusion Studio.

6.78 The charges depend on whether you subscribe on a monthly or annual basis.

6.79 We charge you the following for macromedia coldfusion mx add on services:

Plan	**Price**
Premium 800 (Monthly)	**$15.00/month**
Premium 3000 (Monthly)	**$50.00/month**
Premium Hosting 800 (Yearly)	**$165.00/year**
Premium Hosting 3000 (Yearly)	**$550.00/year**

SQL database add-on

6.80 **Provisioning**

(a) This add on is only available to premium hosting 800 and 3000 customers.

(b) Databases will be stored on a SQL 2000 or a SQL 2008 Server.

(c) BigPond Premium Hosting 3000 plan customers can host on Premier SQL servers or Standard SQL servers (SQL 2000 or 2008). BigPond Premium Hosting 800 plan customers can host on Standard SQL servers (SQL 2000 or 2008). Standard 2000 or 2008 Server service customers will receive a single database up to 50MB and 35 simultaneous user connections. Premium SQL 2000 or 2008 customers will receive a single database up to 150MB and 35 simultaneous user connections.

6.81 **Product features**

(a) Customers whose databases exceed the number of user connections for their level will have their excess connections automatically terminated. We take no responsibility for problems caused by the termination of excessive user connections.

(b) SQL Replication is not supported.

(c) We will only supply a hosting environment, not a testing environment. Customers hosting SQL databases should run the database in a similar environment in their premises and test off line.

(d) Full-text search support is provided for character-based data on the SQL 2000 and 2008 Servers. The Full-Text Search facilities can be used to create special indexes of all pertinent words in selected columns of selected tables. Administration of full-text indexes can be managed either through SQL Server Enterprise Manager or through a new set of stored procedures. Additional new stored procedures can be used to obtain information about full-text indexes. The space taken up by the Full-Text Search indexes is included in the space quota for your site.

6.82 **Pre-requisites for Premier SQL Hosting**

Premium Hosting 1000 customers wishing to host their database on a SQL 2000 or 2008 server are required to meet the Pre Requisites for Premier SQL Hosting as outlined below:

(a) Customers will design their Web-SQL applications to use the SAME user connection. Opening individual user session connections to the database is undesirable and not recommended.

(b) At least one member of the development team responsible for development of the SQL database possesses at least two years experience in SQL Server development and/or has a Microsoft certification (MCSD or MCDBA).

(c) Customer's SQL Server development team follows a formal testing process that tests all application components prior to deploying to the SQL Premier Site server.

(d) The SQL Server development team will apply the following SQL Server development best practices guidelines which may be viewed at http://admin-au.server-secure.com/bestpractices/sql/:

a) Normalise the database design to 3rd Normal Form and use controlled redundancy as a last resort;

b) Do not use or design an application that allows users to fill in edit boxes that generate a long-running query. For example, do not use or design an application that prompts the user for inputs but rather allows certain fields to be left blank or a wildcard to be entered. This may cause the application to sub a query with an excessive running time, thereby causing a blocking problem;

c) Do not use or design an application that allows user input within a transaction;

d) Allow for query cancellation;

e) Use a query or lock time out to prevent a runaway query and avoid distributed deadlocks;

f) Immediately fetch all result rows to completion;

g) Keep transactions as short as possible and avoid nesting transactions;

h) Explicitly control connection management;

i) Use Stored procedures where possible. When calling a stored procedure avoid returning single row result sets, instead use stored procedure output parameters. Insert error handling after each insert, delete and update SQL statement to ensure stored procedure robustness;

j) If returning large result sets to the client, develop a method of returning only the number of rows that can fit in the screen at the one time. See article on "Just-In-Time Record Set Creation";

k) When returning result sets, ensure the SQL statement is as selective as possible to minimise the number of rows retrieved, retrieve only the columns required and minimise network round trips;

l) Construct SQL Query statements using efficient techniques; and

m) Use selective WHERE clause with a supporting index, avoid negative equality clauses and minimise OR logic, use IF EXISTS instead of Select Count(*), use EXISTS instead of IN, avoid large sorts by minimising use of DISTINCT, ORDER BY, GROUP BY and by matching search arguments and ORDER BY clause with a supporting index, minimise the number tables in a join (rule of thumb is <= 4 tables).

n) Test SQL statements prior to implementation. Check for an efficient execution plan, resource usage (CPU, IO, Memory, Worktable space).

o) Avoid using large Server Side cursors

6.83 We charge you the following for SQL database add on services:

Plan	Set up fee	Monthly fee
BigPond Premium Hosting 800	**$121.00**	**$15.00**
BigPond Premium Hosting 3000	**$121.00**	**$30.00**

SQL Lite add-on

6.84 The SQL Lite Add-On is only for use with the Premium 500 product. Premium 500 customers can only have their database hosted on the SQL Lite Add-On server.

6.85 If database and transaction log storage greater than 25MB is required, you will need to upgrade your Premium Hosting plan to Premium 800 with a Standard SQL Add-On or Premium 3000 with a Standard/Premier SQL Add-On.

6.86 Additional SQL disk space is not available with this product. If a larger database is required, you will need to upgrade your Premium Hosting plan and SQL Add-On product.

6.87 Customers whose databases exceed the number of user connections permitted for their plan will find that their excess connections will be automatically terminated. We take no responsibility for problems caused by the termination of excessive user connections.

6.88 We provide a hosting environment - not a testing environment. Customers hosting SQL databases should be running the database in a similar environment in their premises and testing offline.

6.89 We charge you the following for Microsoft windows streaming media add on services:

Add on	Set up fee	Monthly fee
SQL Lite add-on	**$65.00**	**$11.00**

Domain specific SSL keys add-on

6.90 We can apply for a Domain Specific SSL key from third parties on your behalf. The selected third party suppliers' terms apply. Your agreement will be with your selected third party supplier.

6.91 This add on is only available for Premium 400, 800, 1500 and 3000 customers.

6.92 You will need to complete and sign the applicable application forms and third party terms.

6.93 Costs vary depending on the type of key that is chosen. We charge you the following for domain specific SSL keys add on services:

Key type	**Yearly fee**
Comodo 128 bit SSL Key	**$250.00**
Thawte 40 bit SSL key	**$495.00**
Thawte 128 bit SSL key	**$935.00**
Verisign 40 bit SSL key	**$825.00**
Verisign 128 bit SSL key	**$1,980.00**

Domain Name Management service

6.94 Domain name management services are only available to Premium Hosting plan customers.

6.95 If you request us to register a .com, .net, .org, .biz, or .info domain name ("TLDs" or "Top Level Domains") on your behalf, you must read and accept the General Registrar Policy applicable to .com, .net, .org, .biz and .info domain names issued by the registrar Melbourne IT located at http://www.melbourneit.com.au/policies/index, as amended from time to time.

6.96 If you request us to register a .com, .net or .org domain name on your behalf, you must comply with any Policy applicable to .com, .net and .org domain names issued by the Internet Corporation for Assigned Names and Numbers ("ICANN") from time to time.

6.97 In the event of a dispute in registering a TLD, or a dispute about a TLD after registration, you will:

(a) submit to and be bound by Uniform Domain Name Dispute Resolution Policy located at , as amended from time to time; and

(b) be subject to arbitration, suspension or cancellation by any ICANN procedure, or by any registry administrator procedure approved by ICANN policy, relating to:

a) the correction of mistakes by us or the registry administrator in registering the domain name; or

b) the resolution of disputes concerning the domain name.

6.98 If you request us to register a .com.au, .id.au, .net.au or .org.au domain name (.au Domains) on your behalf, you must read and accept:

(a) the policies applicable to terms for .au Domain Name Licences issued by the registrar Melbourne IT located at http://www.melbourneit.com.au/policies/index, as amended from time to time; and

(b) the .au 2LD Domain Name Eligibility and Allocation Policy Rules issued by .au Domain Administration Limited (auDA) located at http://www.auda.org.au/docs/auda-2002-07.txt, as amended from time to time.

6.99 In the event of a dispute in registering a .au Domain, or a dispute about a .au Domain after registration, you will submit to and be bound by the .au Dispute Resolution Policy (auDRP) located at http://www.auda.org.au/docs/auda-2002-22.txt, as amended from time to time.

6.100 By maintaining the registration of a domain name after changes to the applicable policies become effective, you accept those changes.

6.101 In the event of a dispute regarding a domain name, you will submit to the jurisdiction of the courts as provided in the applicable policies.

6.102 You must pay any registration or delegation charges to us in advance. A domain name cannot be registered unless you pay for it in advance.

6.103 We make no representations and give no warranties regarding the availability of your chosen domain name.

6.104 You authorise and direct us to nominate Telstra Corporation Limited ABN 33 051 775 556 as the authorised billing contact for your domain name.

6.105 We are not liable for any loss or damage resulting from the non-renewal of your domain name if you fail to provide us with consent to renew the domain name registration or you delay in providing us with such consent. By providing us with your consent to renew the domain name registration, you warrant that you are, and will remain, eligible to register the domain name during the renewal period.

6.106 You indemnify us against all claims arising out of the registration, use or renewal of your domain name, unless and to the extent that the claim arises out of our breach of these terms, or our negligent act or omission.

Service and Maintenance

6.107 If your selected plan is a Premium Hosting plan and you experience a problem with the service, you should report it to our Customer Service Centre by telephoning **1800 002 609**. If your selected plan is a Basic Hosting Plan and you experience a problem with the service, you should report it to us by using the Mission Control panel.

6.108 If you experience a problem with any component of an add on supplied to you under a contract between you and a third party, you should contact the third party for support directly.

6.109 We may perform scheduled maintenance to the systems that we use to provide the service. We will attempt to perform all scheduled maintenance at times which will affect the fewest customers. If the scheduled maintenance requires the service to be unavailable a continuous period of greater than 30 minutes, we will post details of the times during which the scheduled maintenance is due to occur on the Web Host System News at least 48 hours prior to the maintenance.

6.110 We may perform unscheduled maintenance to the systems that we use to provide the service. If the unscheduled maintenance requires the service to be unavailable for a continuous period of greater than 30 minutes, we will post details of the unscheduled maintenance on the Web Host System News after the maintenance has been completed.

6.111 We may migrate your web site to a new operating system platform if any of our suppliers cease to provide support for the legacy operating system, if the server used to provide the service fails, or if we determine that the server has (or may) become unreliable. We will try to tell you if we intend to migrate your web site to a new operating system platform.

Warranties and Indemnity

6.112 Your service is supplied on the terms that are expressly set out and subject to non-excludable rights under consumer protection laws. Other representations or statements we make to you, whether in person, over the phone or in advertising or other materials you received, are not part of these terms. However, you may have other legal rights in relation to those representations.

6.113 Without limiting clause 9.112, we do not warrant that:

(a) the service will be uninterrupted or error free;

(b) the service will meet your requirements; or

(c) the service will be free from external intruders (hackers), virus or worm attack, denial of service attack, or other persons having unauthorised access to the services or our systems.

This clause is not intended to limit your rights under consumer protection legislation.

6.114 You warrant that:

(a) you have the power to enter into and observe your obligations under these terms;

(b) you have not relied on any representation made by us or upon any descriptions or illustrations or specifications contained in any document including any catalogues or publicity supplied by us;

(c) you will conduct such tests and computer virus scanning as may be necessary to ensure that data uploaded by you onto, or downloaded by you from, our systems does not contain any computer virus and will not in any way, corrupt the data or systems of any person;

(d) you will keep secure any passwords used with the service; and

(e) you have, and will maintain, the necessary authority to grant the rights, consents, permissions and licences in clause 9.10.

6.115 You must indemnify us, our employees, contractors and agents against all damages, costs, charges, liabilities and expenses arising out of or in connection with:

(a) the use or attempted use of the service by a person (including you) using your logon name and password with, or without, your authority;

(b) any fault in the service due to your negligence or wilful misuse, or any unauthorised use of the service; and

(c) your breach of these terms.

Liability

6.116 We accept liability for the supply of the service to the extent provided in this clause and in accordance with any non-excludable right under consumer protection law.

6.117 We accept liability where:

(a) the service is not supplied with due care and skill;

(b) any material supplied in connection with the service is not fit for a particular purpose for which was made known by you to us; and

(c) we are otherwise required as a result of non-excludable rights under consumer protection laws.

6.118 To the extent (if any) that the service is not of a kind ordinarily acquired for personal, domestic or household use, our liability under clause 6.117 is limited to, at our option:

(a) resupplying or paying for the costs of having the services resupplied, if the liability relates to services; or

(b) repairing the goods or refunding the purchase price of the goods, if the liability relates to goods.

6.119 Other than liability accepted by us in clause 6.117, and subject to clause 11.118, we exclude all liability for indirect and consequential loss or damage of any kind, loss or corruption of data, loss of revenue, loss of profits, failure to realise expected profits or savings and any other commercial or economic loss of any kind, in contract, tort (including negligence), under any statute or otherwise arising from or relating in any way to these terms and/or its subject matter.

6.120 Other than liability accepted by us in clause 6.117, and 11.118, our total liability for loss or damage of any kind not excluded by clause 6.119, however caused, in contract, tort (including negligence), under any statute or otherwise arising from or relating in any way to these terms and/or its subject matter is limited in aggregate for any and all claims to $10.

Term, Suspension and Termination

6.121 Either party may terminate the service at any time by providing the other party with at least 30 days' written notice.

6.122 If your service is terminated for any reason:

(a) you must immediately pay all fees and charges owing up to the date of termination (without any deduction or set-off of any kind);

(b) we may delete all of your data from our systems; and

(c) you must immediately delete from your systems all copies of all software.

6.123 We may from time to time without notice suspend or disconnect the service or deny access to the service:

(a) during any technical failure, modification or maintenance of the service, provided that we use reasonable endeavours to resume the service as soon as reasonably practicable. If we need to suspend your service under this clause, usually we will give you 24 hours' notice, unless the maintenance is urgent, in which case we will give you as much notice as we reasonably can. We will try to ensure that the limitation or suspension is at night and for as short a period as is reasonable possible; or

(b) we consider that you have failed to comply with any provision of these terms (including failure to pay fees or charges due), or you do, or allow to be done, anything which in our opinion may have the effect of jeopardising the operation of the service.

6.124 You remain liable to pay all fees and charges during any period of suspension or disconnection or denial of access.

6.125 We may (without notice) remove, amend or alter any data:

(a) upon being made aware of any claim or allegation, or any court order, judgment, determination or other finding of a court or other competent body, that the data is illegal, defamatory, offensive or in breach of a third party's rights (including intellectual property rights and moral rights); or

(b) if we consider that you have failed to comply with any provision of these terms.

6.126 We are not required to provide you with a copy of your data if:

(a) we suspend or disconnect your service or deny access to the service;

(b) remove, amend or alter your data; or

(c) your service is terminated (for any reason).

6.127 If we provide you with a copy of your data, then we are entitled to charge you an additional fee calculated at the hourly rate the charges section above for the time taken for us to recover and provide you with that data.

Additional terms

6.128 You must comply with:

(a) the add on terms that are applicable to your selected add ons;

(b) our acceptable use policy set out in the Part A - General Terms for BigPond services section of Our Customer Terms here;

(c) our operational procedures for the service which are set out in the Mission Control User Guide at https://mc-au.server-secure.com

6.129 If there is any inconsistency between a provision in a document listed in this clause 9.129 and a provision in another document listed in this clause 9.129, then the provision in the document listed first below prevails:

(a) these terms;

(b) the add on terms that are applicable to your selected add ons;

(c) our acceptable use policy; and

(d) our operational procedures for the service.

General

6.130 Either party may exercise a right, power or remedy at its discretion and separately or concurrently with another right, power or remedy. Failure by a party to exercise, or delay in exercising, a right, power or remedy does not prevent its exercise.

6.131 A provision of, or a right created under these terms, may not be waived except in writing signed by the party granting the waiver.

6.132 Subject to clause 6.133, we can change these terms, the add on terms, our acceptable use policy set out in Part A - General Terms for BigPond services of the BigPond service section of Our Customer Terms or our operational procedures for the service at any time.

6.133 If we change any of the documents listed in clause 9.132 in a manner which we reasonably consider would cause detriment to you, we will tell you of the change at least 14 days in advance. Our assessment of whether a change would cause detriment to you will include consideration of your usage patterns over the 3 months immediately preceding the change. If we reasonably consider that a change causes detriment to you and tell you of the change but you do not accept the change, you may terminate the service but you must tell us of such termination within 14 days of our notice. If you tell us that you wish to terminate the service, the termination will take effect from the date that the change of the document listed in clause 9.132 comes into effect, as specified in our notice. If you use the service beyond the date of the change, the change will apply to you. If you choose to cancel your service under this clause, we will refund you any unused portion of your monthly charges.

6.134 When we tell you about changes to Our Customer Terms under clause 9.133, unless specified otherwise in the clause, we can do so by bill message, bill insert, direct mail or email (if you have an email address and have agreed for us to tell you about changes to Our Customer Terms by email). In addition to this notice, we may also publish a notice in a national newspaper.

6.135 Notices can be provided under these terms by email, post or facsimile. We may tell you by email of any matters relating to these terms, including any changes to these terms. You must regularly check the email address that you provide to us. If we elect to provide notice to you by email, you will be taken to have received the email notification, in the absence of any evidence to the contrary.

6.136 You may not resell services or assign any of your rights or obligations under these terms without our prior written consent. We may transfer or novate any of our rights or obligations under these terms to a reputable, credit worthy third party who agrees to be bound by our obligations under these terms. If we do so, we will try to notify you beforehand (otherwise we will tell you within 30 days after the transfer).

6.137 The terms that apply to you and us are expressly set out in these terms and those implied by laws that cannot be excluded by us. Other representations or statements we make to you, whether in person, over the phone or in advertising or other materials you received, are not part of these terms. However, you may have other legal rights in relation to those representations.

6.138 These terms are governed by the law in force in New South Wales, Australia.

6.139 Clauses 6.21, **Error! Reference source not found.**-6.115, **Error! Reference source not fo und.** and this clause survive the termination (for any reason) of these terms.

7 Online Storage

7.1 BigPond Online Storage is an online storage service that is accessible through the Internet and from a web browser. Using BigPond Online Storage, you can secure, backup and access your data remotely.

7.2 The features of your service and the levels of storage space that are permitted depend upon your selected plan and are specified below.

7.3 The service includes the software, Online Storage Desktop Client, for downloading onto your PC. It includes any documentation provided in "online" or electronic form and any updates to the software or documentation.

7.4 The service does not include:

(a) correction of errors or defects caused by the operation of the service in a manner other than that specified in these terms;

(b) diagnosis or rectification of faults not associated with BigPond Online Storage;

(c) installation of the software or any on-site service; or

(d) any telecommunications services or Internet access required to access BigPond Online Storage.

Your obligations

7.5 You must:

(a) be the same person as the customer of the BigPond Internet service to which this service relates;

(b) comply with any terms set out in the charges section below;

(c) pay all fees and charges associated with your use of the service;

(d) promptly tell us if you believe or suspect that the service has been compromised or are being used in a manner that breaches these terms; and

(e) regularly check your default email address allocated by us for messages about your service (or, if you have arranged for emails sent to your default email address to be forwarded to an alternate email address, you must check that alternate email address).

7.6 You must maintain your BigPond Internet service in order to receive the online storage service.

7.7 We will use due care and skill in providing the service. There may also be other non-excludable statutory guarantees, implied conditions or warranties under consumer protection laws (such as Competition & Consumer Act 2010 and State and Territory Fair Trading Acts) that cannot be excluded which may apply to goods or services we supply to consumers, including that services be fit for their purpose. However, we do not promise that the service will be continuous, accessible at all times or fault-free.

Plan Terms

7.8 We may make available different BigPond Online Storage plans from time to time as specified at our website.

7.9 You must comply with the plan terms that are applicable to your selected plan.

Availability

7.10 In order to use the service, you must:

(a) be the primary account holder of an existing BigPond Dial-Up or Broadband Internet service customer; and

(b) have access to an Internet connection.

7.11 BigPond Pre-Paid Dial-Up customers are not able to use the service.

7.12 Only the primary account holder may purchase the service and can access the service. For the avoidance of doubt, if there are additional users who use your Internet connection other than the primary account holder, then these additional users are not allowed to purchase, access or use the service.

7.13 The service is not available if you are a Telstra wholesale customer or an end user of a Telstra wholesale customer.

Charges

7.14 You must pay the charges set out in below for your service by the date specified on your bill.

7.15 Any monthly or annual fees may be payable in advance and we may issue your first invoice when your service commences. If your service is terminated for any reason, we may issue a final invoice immediately.

7.16 If any amount is unpaid after the due date for payment specified on any invoice, we may (without affecting any of our other rights under these terms), do any or all of the following:

(a) if the amount remains outstanding for 30 days after the due date, terminate these terms;

(b) if the amount remains outstanding for 60 days and we have reasonable grounds for believing you represent a credit risk, terminate or disconnect any other which we supply to you.

7.17 We charge you the following for domain specific SSL keys add on services:

Storage Options	Storage Allowance	Monthly fee
Personal	100MB	**$2.50**
	300MB	**$5.95**
	800MB	**$12.95**
Professional	100MB	**$4.95**
	500MB	**$10.95**
	2000MB	**$24.95**

The monthly subscription fee applies for each full month or part of the month for each licence subscribed.

7.18 Any unused storage is forfeited.

Intellectual property

7.19 You do not receive any title in the software we used to deliver the service.

7.20 We grant you a non-exclusive, non-transferable licence to use the software for the sole purpose of using the service on these terms.

7.21 This licence terminates on the expiration or termination of your service.

7.22 You must not use, or permit any person to use, the software in any way that is not permitted by these terms.

7.23 You must not:

(a) use the software on behalf of, or for the benefit of, any other person; or

(b) disassemble, reverse engineer or create more than one copy of the software (unless you have a statutory right to disassemble, reverse engineer or create more than one copy of the software, in which case you must only do so to the extent permitted by your statutory right); or

(c) alter or remove any copyright or other intellectual property notifications applied to the software.

7.24 We may provide updates and patches to the software through our BigPond Website. At our sole discretion, we may directly update the software in accordance with these terms.

Service availability

7.25 We provide BigPond BigPond Online Storage to you with due care and skill. There may also be non-excludable statutory guarantees, implied conditions or warranties under consumer protection laws (such as the Competition & Consumer Act 2010 and State and Territory Fair Trading Acts) which may apply to goods or services we supply, including that services be reasonably fit for their purpose. However, we do not promise it will be error free or free from interruption or failure, or that it is compatible with any particular hardware or software or regarding availability, accessibility, or performance. In addition, BigPond BigPond Online Storage may not be available or may become unavailable due to any number of factors including, without limitation, acts of God, technical failure, telecommunications infrastructure, or delay or disruption attributable to viruses, denial of service attacks, increased or fluctuating demand, actions and omissions of third parties, or any other cause reasonably beyond our control.

7.26 We may perform scheduled and unscheduled maintenance to the systems that we use to provide the service. We will attempt to perform all scheduled maintenance at times which will affect the fewest customers.

7.27 We may archive your data on a regular basis for the purposes of disaster recovery. In the event of equipment failure or data corruption, we will use reasonable endeavours to restore your data from the last known good archive. Due to technological limitations, we cannot promise that, and despite our reasonable care, backups will:

(a) occur on every scheduled occasion;

(b) be complete; or

(c) be uncorrupted.

7.28 We will not be liable for incomplete, out-of-date, corrupt or otherwise deficient data recovered from our archives where we have acted with reasonable care. Under our current practice, which may be changed at our sole discretion, archived data is held for a maximum of 35 days.

Use of the service

7.29 You are solely responsible for your data. This means that:

(a) you must have appropriate and compatible equipment, software and Internet access to access and upload your data to our systems;

(b) we are not able to access or retrieve your data at your request at any time; and

(c) your data will be encrypted when stored on our systems and we will not be able to view the contents of your data.

7.30 You must ensure that any means used to access BigPond Online Storage electronically are secure. Without limiting clauses **Error! Reference source not found.** to **Error! Re ference source not found.** ("Limitation of liability") of these terms, we are not liable for:

(a) any unauthorised access to your data; and

(b) any loss or damage of any kind that you suffer or incur as a result of unauthorised access to your data, unless such loss or damage was deliberately caused by our unauthorised actions or negligence in breach of our obligations under these terms.

This clause is not intended to limit your rights under consumer protection legislation.

7.31 If you exceed, or your current upload will exceed, your allocated level of storage space, your data will be rejected and will not be stored on the system.

7.32 You must advise us in a timely manner if you have reason to suspect that the service is being used contrary to these terms.

7.33 We will determine, in our absolute discretion, the location from which your service is provided from time to time.

7.34 You must comply with the acceptable use policy set out in Part A - General Terms for BigPond services of the BigPond service section of Our Customer Terms that applies to your BigPond Internet service.

7.35 You must not re-sell BigPond Online Storage.

Cancellation and termination

7.36 We may cancel your service at any time effective at the end of your monthly billing cycle, by giving you 30 days' prior written notice.

7.37 Either party may cancel the service immediately if the other party breaches any provision of these terms and fails to remedy the breach within 30 days of receiving a written notice detailing the breach and requesting that it be rectified.

7.38 If your service is cancelled you are entitled to a rebate (if any) pro-rated for the unused days remaining on your monthly subscription calculated from the time you were last charged if you cancel your service.

7.39 You are responsible for ensuring that you copy your data before the date of cancellation. If your service is cancelled, we will suspend your account and hold your data for 30 days. After this period, we will delete your data from our systems and deactivate your account. This means that you will no longer be able to access your data after this time.

Commencement and termination of these terms

7.40 You may subscribe or terminate the service at any time.

7.41 We may terminate one or more service under these terms:

(a) immediately, if we reasonably suspect that you have materially breached these terms in a way that cannot be remedied;

(b) if we reasonably suspect you have materially breached these terms in a way that can be remedied, but you do not remedy the breach within 14 days of us telling you to do so; or

(c) at any time effective at the end of your monthly billing cycle, by giving you at least 30 days' prior notice in writing.

7.42 If your BigPond Internet service to which this service relates is suspended, disconnected or terminated, then the service may also be suspended, disconnected or terminated.

7.43 If the service is suspended, disconnected or terminated, the liability of each party (if any) is set out in this clause 10.

Changing these terms

7.44 Except as set out in clause 10.45, we can change these terms at any time without notice.

7.45 If we consider that a change would cause you detriment, we will tell you of the change by email, post or facsimile at least 30 days before the change will take effect.

7.46 If you do not tell us that you wish to the service within 14 days after receiving notice of a change under clause 10.45 and you pay the charges for services provided to you after our notice, the change will apply to you. If you choose to cancel your service under this clause, we will refund you any unused portion of your monthly charges.

7.47 When we tell you about changes to Our Customer Terms under clause 10.45, unless specified otherwise in the clause, we can do so by bill message, bill insert, direct mail or email (if you have an email address and have agreed for us to tell you about changes to Our Customer Terms by email). In addition to this notice, we may also publish a notice in a national newspaper.

Maintenance

7.48 If you experience a problem with your service, you should tell our Customer Service Centre on the number set out on the BigPond website.

7.49 We will use all reasonable efforts to rectify any problem notified to us as soon as possible.

Limitation of liability

7.50 Your service is supplied on the terms that are expressly set out and subject to non-excludable rights under consumer protection laws. Other representations or statements we make to you, whether in person, over the phone or in advertising or other materials you received, are not part of these terms. However, you may have other legal rights in relation to those representations.

7.51 Clauses 10.52, 10.53 and 10.54 apply to you only if you are a Residential Customer.

7.52 We accept our liability to you if we breach these terms act negligently under the principles applied by the courts or breach any non-excludable right under consumer protection laws, except as set out in clauses 10.53 and 10.54.

7.53 As you have taken up the service predominately for personal, domestic or household use, we do not accept liability for any business related losses that result from the use of the service. However, we will accept that liability if it cannot be excluded under any legislation.

7.54 We are not liable for any loss to the extent that it is caused by you, for example, through your negligence or breach of these terms.

7.55 Clauses **Error! Reference source not found.**, **Error! Reference source not found.**, REF _Ref392174463 \r \h **Error! Reference source not found.**, **Error! Reference source not found.**, **Error! Reference source not found.**and **Error! Reference source not found.** apply to you only if you are a Business Customer.

7.56 Given the nature of telecommunications systems (including the service's reliance on systems not owned or controlled by us) we cannot promise that the service will be continuous or fault free. Accordingly, if lawful to do so under consumer protection laws we limit our liability to you for losses resulting from any interruption or delay to your service to an amount equal to the service charges billed for the affected service for the period of the interruption or delay.

7.57 Subject to clause 10.69, we accept liability arising from our breach of contract or negligence:

(a) for any personal injury or death to you, your employees, agents and contractors in relation to the supply of the service;

(b) for any damage to your real or tangible property resulting from the supply of the service, but we limit our liability to our choice of repairing or replacing the property or paying the cost of repairing or replacing it; and

(c) unless clause 10.56 applies, for any other cost or expense you reasonably incur that is a direct result of, and flows naturally from, such breach or negligence (but excludes loss of profits, likely savings and data), but we limit our liability provided it is lawful to do so for all such claims in aggregate to the total amount payable to us under these terms in respect of the first year of these terms.

7.58 Other than for the liability we accept under this clause 10, we exclude all other liability whether to you or a third party for breach of contract, negligence or breach of any other law. For any liability which cannot lawfully be excluded as it is under this clause 10, but can be limited, our liability is limited to resupplying or paying the cost of resupplying services and repairing, replacing or paying the cost of repairing or replacing goods.

7.59 Notwithstanding anything else in this clause 10, our liability will be reduced to the extent the loss or damage is caused by you, your employees, agents or contractors.

7.60 We will not be responsible for any loss or damage arising from circumstances outside our reasonable control.

7.61 You are liable to us if you breach these terms act negligently under the principles applied by the courts or breach any non-excludable right under consumer protection laws. However, you are not liable for any loss we suffer to the extent that it is caused by us, for example, through our negligence or breach of these terms.

For the purposes of this clause:

Business Customer means a customer who is not a Residential Customer.

Loss means loss or damage of any kind, however caused, whether in contract, tort (including negligence), under any statute or otherwise arising from or related in any way to these terms or its subject matter.

Residential Customer means a customer who takes up the service predominantly to use for personal, household or domestic use or consumption.

Privacy

7.62 We collect, use and disclose personal information as set out in our "Protecting Your Privacy" Statement. The current version of our Privacy Statement is available at http://www.telstra.com.au/privacy/privacy_statement.html.

Transferring your service or this these terms

7.63 You may not transfer your rights and obligations in respect of any service or under these terms without our prior consent (which we will not unreasonably withhold).

7.64 We may transfer or novate any of our rights or obligations under these terms to a reputable, credit worthy third party who agrees to be bound by our obligations under these terms. If we do so, we will try to notify you beforehand (otherwise we will tell you within 30 days after the transfer).

Taxes

7.65 The charges above may not include all taxes. You must pay us on request any stamp and other duties, fees, taxes (including GST) and charges payable on:

(a) these terms; and

(b) any payment, receipt or other transaction arising out of these terms.

7.66 GST may be imposed on a supply we make to you under these terms. Unless the consideration payable for the supply is expressed to include GST, you must pay on our demand an additional amount to cover the GST. We will issue a Tax Invoice to you for any supply on which GST is imposed.

In this clause, "GST" and "Tax Invoice" have the same meaning as in the A New Tax System (Goods and Services Tax) Act 1999 (Cth).

General terms

7.67 We are not to be taken to waive any of our rights under these terms merely because we do not exercise them or delay in exercising them.

7.68 These terms are governed by the laws of the State or Territory in Australia in which you reside. Nothing in these terms, or any actions we take under them constitute a submission by us to any foreign jurisdiction.

7.69 Clauses **Error! Reference source not found.-Error! Reference source not found.**, REF _Ref392174310 \r \h **Error! Reference source not found.-Error! Reference source not found.**and **Error! Reference source not found.-Error! Reference source not found.** survive termination of these terms (regardless of any other clauses that may survive termination).

7.70 If we need to tell you of any matters relating to these terms, we may use email to your default email address allocated by us, or post or fax.

8 Static IP for ADSL

8.1 The BigPond static IP address service consists of the allocation, by us, of one (1) Internet Protocol address ("IP Address") to you, and the provision of a helpdesk service to answer questions about the IP Address ("Static IP for ADSL").

8.2 You must comply with the acceptable use policy set out in Part A - General Terms for BigPond services of the BigPond service section of Our Customer Terms.

8.3 IP Addresses may have been used by us (or other people) prior to being allocated to you. As a result of this, you may receive traffic intended for us (or those other people) and that the traffic may be "malicious" (eg as part of a denial of service attack).

8.4 Your Static IP address will be assigned from a pool of available IP addresses. You cannot request a particular Static IP address.

Charges

8.5 You must pay the monthly fee as set out below for the Static IP for ADSL.

8.6 The monthly fee is payable in advance.

8.7 If you or we cancel your Static IP for ADSL service and that cancellation occurs part way through a billing month, we will refund you any unused portion of your monthly charges.

8.8 The charges may not include all taxes. You must pay us when we ask you for any applicable stamp and other duties, fees, taxes (including goods and services tax) and charges payable in relation to the service.

8.9 Without limiting clause 13.8, if GST is imposed on any supply made by us pursuant to these terms, you must pay to us, in addition to any consideration payable, or to be provided, by you under these terms for such supply, an additional amount for the supply calculated by multiplying the prevailing GST rate by the consideration for the relevant supply payable, or to be provided, (without any deduction or set-off) by you under any other clause in these terms. Any amount payable by you under this clause is payable on demand whether such demand is by means of an invoice or otherwise.

8.10 We charge you the following for Static IP add on services:

Part E – Additional services

Add on	Monthly fee
Static IP for ADSL	**$10.00**

Eligibility

8.11 You can only have one Static IP address per BigPond Broadband ADSL account, and it can only be assigned to the Primary username log-in for use in your home region. If you log in while travelling, you will be assigned a dynamic IP address for the session.

8.12 If you have multiple logins, your sub accounts will also be assigned a dynamic IP address for each online session.

8.13 The service is not available if you are a Telstra wholesale customer or an end user of a Telstra wholesale customer.

IP Address Licence

8.14 We will allocate one (1) Internet protocol address ("IP Address") to you.

8.15 The particular IP Address that we provide to you will be determined by us in our sole discretion. We may also replace it with a different Internet protocol address, at any time by giving 14 days' prior notice to you.

8.16 We grant to you a non-exclusive, non-transferable, revocable license to use the IP Address in Equipment and for the sole purpose of using the IP Address with your BigPond ADSL Service ("Licence"). We reserve all other rights in the IP Address.

8.17 You may not sub-licence, assign, share, sell, rent, lease, transfer or otherwise deal with the IP Address and will have no rights to the IP Address other than as granted to you under these terms.

8.18 To avoid doubt, the IP Address cannot be used with any service other than the BigPond ADSL service.

Help Desk

8.19 If you have a question about the Static IP for ADSL, you may telephone our Customer Service Centre or visit

8.20 We will use reasonable efforts to answer your question.

8.21 We do not provide help desk support for any problems that you may have with any equipment that you use the IP Address with.

Liability

8.22 Your service is supplied on the terms that are expressly set out and subject to non-excludable rights under consumer protection laws. Other representations or statements we make to you, whether in person, over the phone or in advertising or other materials you received, are not part of these terms. However, you may have other legal rights in relation to those representations.

8.23 Clauses **Error! Reference source not found.**, **Error! Reference source not found.**and REF _Ref392174940 \r \h **Error! Reference source not found.** apply to you only if you are a Residential Customer.

8.24 We accept our liability to you if we breach these terms act negligently under the principles applied by the courts or breach any non-excludable rights under consumer protection laws, except as set out in clauses **Error! Reference source not found.** and REF _Ref392174954 \r \h **Error! Reference source not found.**.

8.25 As you have taken up the service predominately for personal, domestic or household use, we do not accept liability for any business related losses that result from the use of the service. However, we will accept that liability if it cannot be excluded under any legislation.

8.26 We are not liable for any loss to the extent that it is caused by you, for example, through your negligence or breach of these terms.

8.27 Clauses **Error! Reference source not found.**, **Error! Reference source not found.**, REF _Ref392174975 \r \h **Error! Reference source not found.**, **Error! Reference source not found.**, **Error! Reference source not found.**and **Error! Reference source not found.** apply to you only if you are a Business Customer.

8.28 Given the nature of telecommunications systems (including the service's reliance on systems not owned or controlled by us) we cannot promise that the service will be continuous or fault free. Accordingly, if lawful to do so under consumer protection laws we limit our liability to you for losses resulting from any interruption or delay to your service to an amount equal to the service charges billed for the affected service for the period of the interruption or delay.

8.29 Subject to clause 13.32, we accept liability arising from our breach of contract or negligence:

(a) for any personal injury or death to you, your employees, agents and contractors in relation to the supply of the service;

(b) for any damage to your real or tangible property resulting from the supply of the service, but we limit our liability to our choice of repairing or replacing the property or paying the cost of repairing or replacing it; and

(c) unless clause 13.28 applies, for any other cost or expense you reasonably incur that is a direct result of, and flows naturally from, such breach or negligence (but excludes loss of profits, likely savings and data), but we limit our liability provided it is lawful to do so for all such claims in aggregate to the total amount payable to us under these terms in respect of the first year of the these terms.

8.30 Other than for the liability we accept under clauses 13.22-13.33, we exclude all other liability whether to you or a third party for breach of contract, negligence or breach of any other law. For any liability which cannot lawfully be excluded as it is under clauses 13.21-13.32, but can be limited, our liability is limited to resupplying or paying the cost of resupplying services and repairing, replacing or paying the cost of repairing or replacing goods.

8.31 Notwithstanding anything else in clauses 13.22-13.33, our liability will be reduced to the extent the loss or damage is caused by you, your employees, agents or contractors.

8.32 We will not be responsible for any loss or damage arising from circumstances outside our reasonable control.

8.33 You are liable to us if you breach these terms act negligently under the principles applied by the courts or breach any non-excludable right under consumer protection laws. However, you are not liable for any loss we suffer to the extent that it is caused by us, for example, through our negligence or breach of these terms.

For the purposes of this clause:

Business Customer means a customer who is not a Residential Customer.

Loss means loss or damage of any kind, however caused, whether in contract, tort (including negligence), under any statute or otherwise arising from or related in any way to these terms or its subject matter.

Residential Customer means a customer who takes up the service predominantly to use for personal, household or domestic use or consumption.

Information

8.34 Information concerning you will be held in a database. The database will contain your name, address, telephone numbers, bank account or credit card details, billing details,

information relating to the provision and use of the service, and information provided by you in connection with these terms or the service.

8.35 This information (other than bank account and credit card details) may be used:

(a) to enable us to perform our obligations to you under these terms, including to provide the service;

(b) to enable us to ensure that you perform your obligations under these terms;

(c) by any entity related to us and any service provider, for planning, research, or if required by any law (including without limitation the Telstra Corporation Act 1991 (Cth)), or if required by the rules of any stock exchange and, except for Ponderings as set out in clause 13.35, if you give us your express consent, for the promotion and marketing (whether targeted, direct or indirect) of our products and services or the products or services of any service provider and any entity related to us.

8.36 In addition to our other rights under clauses 13.34-13.38, we may give Credit Information about you to a credit reporting agency to:

(a) obtain a consumer credit report about you; or

(b) allow the credit reporting agency to create or maintain a credit information file containing information about you.

8.37 In addition to our other rights under this clause, we may (in accordance with the Privacy Act 1988 (Cth)):

(a) obtain and use information concerning your commercial activities and commercial credit worthiness from a credit reporting agency or other business that reports on commercial credit worthiness to assess your application for the service (if the application is for consumer credit) or the collect overdue payments;

(b) obtain or use a consumer credit report about you from a credit reporting agency to assess your application for the service (if it is for commercial credit) or collect overdue payments; and

(c) disclose information about you to other credit providers or obtain and use information from other credit providers for the purposes of assessing your application for the service, your ongoing credit worthiness or the status of any account held by you with us or with any other credit provider.

8.38 We may send our monthly newsletter, Ponderings, to you via email each month. This is separate to the Ponderings insert you receive with your BigPond bill. Our Ponderings email will contain information relating to the service and may also contain information about BigPond and/or new products and services offered by BigPond that may be of interest or benefit to you. Our Ponderings email will not contain any advertising, marketing or promotional material for other parts of Telstra or for third party suppliers. As our Ponderings email is one of the principal means by which we tell you about service related matters, you cannot opt out of receiving it and we will not include a functional unsubscribe message with the email containing Ponderings.

Suspension and termination

8.39 If your BigPond ADSL service to which these services related is suspended, disconnected or terminated, then the services provided under these terms will also be suspended, disconnected or terminated.

8.40 You may your service at any time by submitting a cancellation request via the or by calling our Customer Service Centre. Termination will take effect immediately after we receive and process your request.

8.41 If we reasonably suspect that you have materially breached any of these terms (including breaching the acceptable use policy) or if we reasonably suspect you have materially breached these terms in a way that can be remedied, but you do not remedy the breach within 14 days of us telling you to do so, then we may immediately terminate the service or require you to suspend all use of the IP Address (and you must immediately cease all such use upon receiving a notice of suspension from us).

8.42 We may terminate this service:

(a) if you materially breach these terms (including breaching the acceptable use policy);

(b) if any amounts owing under these terms remain outstanding for thirty (30) days after the due date; or

(c) on thirty (30) days notice to you.

8.43 We may suspend (and you must immediately cease) all use of the IP Address at any time if we reasonably determine that such action is necessary for the purpose of maintenance, integrity or restoration of the BigPond broadband service network. If we need to suspend the service under this clause, usually we will give you 24 hours' notice, unless the maintenance is urgent, in which case we will give you as much notice as we reasonably can. We will try to ensure that the limitation or suspension is at night and for as short a period as is reasonable possible.

8.44 We may take such action as we believe is reasonably necessary at any time if there is a regulatory event, including suspending all use of the IP Address by you. We will try and give you as much notice as possible in the circumstances, and you must immediately cease all such use upon receiving a notice of suspension from us.

8.45 On termination of these terms (for any reason), you must immediately cease using the IP Address and remove the IP Address from the Equipment (and from any other software or hardware devices that you have included it in).

Transferring the service or IP Address

8.46 You may not transfer, novate or otherwise deal with any of your rights or obligations under these terms (including, to avoid doubt, the right to receive the Static IP for ADSL and the right to use the IP Address) without our consent (which we will not unreasonably withhold).

8.47 We may transfer or novate any of our rights or obligations under these terms to a reputable, credit worthy third party who agrees to be bound by our obligations under these terms. If we do so, we will try to notify you beforehand (otherwise we will tell you within 30 days after the transfer).

Changing these terms

8.48 From time to time, we need to be able to change these terms to reflect our changing business. We can change these terms (including the charges or the acceptable use policy) in accordance with this clause.

8.49 We must give you at least 30 days' prior notice of the change, unless:

(a) we need to make the change immediately in order to act legally or the change results from changes in the law. If this is the case, we will give you as much notice as we reasonably can; or

(b) the change will benefit you. If this is the case, we can make the change and without giving you notice.

8.50 If we make a change to these terms and the change means that you are materially worse off (and does not fall within clause 13.49(a)), you may cancel your service by giving us notice within 14 days of the date we tell you of the change.

8.51 If you choose to cancel your service under clause 13.50, we will refund you any unused portion of your monthly charges.

8.52 If you do not tell us of your decision to cancel your service under clause 13.50, and continue using the service from the date on which the change comes into effect, the change will apply to you.

8.53 If we change these terms, the online version of these terms will always be updated to reflect those changes.

Other general terms

8.54 If we do not exercise, or we delay in exercising a right under these terms, then we may still exercise that right at any time in the future.

8.55 These terms will be governed by and interpreted in accordance with the laws of the State or Territory in Australia in which you reside.

8.56 Notices can be provided under these terms by post or facsimile. We may also tell you by email of any matters relating to these terms, including any changes to these terms. You must regularly check your default email address as allocated by us or, if you have arranged for emails sent to your default email address to be forwarded to an alternative email address, that alternative email address.

8.57 Clauses 13.8, 13.9, 13.34-13.38, 13.45 and this clause 13.57 survive termination (for any reason) of these terms.

9 BigPond WebHosting

What is BigPond WebHosting?

9.1 BigPond WebHosting is a service that provides website hosting and domain name registration. It is available in three different plans as follows:

	Bronze	Silver	Gold
Minimum term	12 months	12 months	12 months
Disk space limit	1GB	2GB	4GB
Monthly download limit (MB)*	3GB/month	10GB/month	30GB/month
Domain Names Registered (1 domain name is included)	.com, .net and .info (extra administration fee for .com and .net)	.com, .net and .info	.com, .net and .info
Included Mailboxes	1	5	10
Website Builder	Included, limited	Included, limited	Included, all

Easy	templates, page limit of 7	templates, no page limits	templates, no page limits

* The monthly download limit is the amount of data that can be downloaded from your website each month. Unused monthly downloads will not be carried over to the following month.

9.2 We will provide you with at least one logon name and password ("VS" number) to allow you to access the BigPond WebHosting Mission Control panel,which may be used by you to configure various features of your service.

Availability

9.3 The BigPond WebHosting service is not available if you are a Telstra wholesale customer.

9.4 If you are an existing Premium Hosting customer, selecting the option to use your existing domain name with your BigPond WebHosting service will not cancel your existing Premium Hosting service. You must arrange for this separately.

9.5 If you are an existing Family and Small Business customer who elects to transfer to the BigPond WebHosting service:

(a) your existing Family and Small Business hosting service will be cancelled and your existing website content will be deleted. We will give you an opportunity to move your existing website content to BigPond WebHosting prior to such deletion; and

(b) your existing email service connected to your Family or Small Business hosting domain name will be cancelled. For customers using POP3 all email currently in your inbox will be deleted. For customers using Webmail all your emails and contact details in Webmail will be deleted. Webmail customers will also lose unified messaging functionality. You must set up your BigPond WebHosting email account and activate your BigPond WebHosting service before you can use email with your new service.

9.6 If you choose to use your existing domain name with the BigPond WebHosting service we will only re-delegate your domain name (ie change the relevant domain name server) as part of your BigPond WebHosting service unless you request transfer of the registration of your domain name (as referred to below under Domain Name Registration). Your domain name will remain registered with your current registrar and you must continue to pay applicable charges to your current registrar in addition to the charges for BigPond WebHosting until you transfer the registration of your domain name

to our nominated registrar or reseller for the BigPond WebHosting service. You must provides us with all the information we require to redelegate your domain name.

9.7 Family and Small Business customers who wish to move their existing website content to the BigPond WebHosting service can do this themselves, or we can move your website content for a fee as set out below in the charges section.

Minimum Term and auto-renewal

9.8 You must acquire the BigPond WebHosting service for a minimum term of 12 months.

9.9 Except for domain name registration renewals which are separately dealt with below, your BigPond WebHosting service will automatically renew for a further 12 month term upon expiry of the minimum term, or the then current renewal term, unless you notify us that your service is not to be renewed prior to expiry of the minimum term or the then current renewal term for your service.

9.10 If you notify us that you do not wish to renew your BigPond WebHosting service after expiry of the minimum term, or the then current renewal term (as applicable), but before 30 days after such expiry, your BigPond WebHosting service will be cancelled effective from the original expiry date and you will not be required to pay us the early termination charge set out below.

Domain Name Registration

9.11 Each BigPond WebHosting plan includes the registration or transfer of a .com, .net or .info domain name in your name.

9.12 If you request registration of a new domain name for your BigPond WebHosting service, we will procure registration of that domain name with our nominated registrar for the BigPond WebHosting service.

9.13 If you request us to do so we will transfer the registration of your existing domain name which you use or propose to use with your BigPond WebHosting service, to our nominated registrar or reseller for the BigPond WebHosting service. You must provide us with all the information we require to transfer the registration of your domain name.

9.14 We do not guarantee that you will be successful in your application to register or transfer your domain name.

9.15 If the application for your new domain name or transfer of the registration of your existing domain name to our nominated registrar or reseller for the BigPond WebHosting service is successful:

(a) we will become the delegated domain administrator for your domain name;

(b) We will not be required to provide you with the registry key or password to your domain name, except in accordance with these terms; and

(c) your transferred domain name will have an additional one year term added to the balance of the registration term remaining as at the date of transfer.

9.16 Each new domain name registered or transferred under these terms will automatically renew 25 days prior to the relevant domain name expiry for a further 12 months unless:

(a) prior notice is received from you that your domain name should not be renewed;

(b) you cease to be the registered owner of that domain name; or

(c) we cease to be the delegated domain administrator of your domain name.

9.17 If there is a dispute regarding your domain name registration or in respect of your domain name after registration, you agree that your domain name will be subject to arbitration, suspension or cancellation in accordance with ICANN procedure, or by any registry administrator procedure approved by an ICANN policy, relating to:

(a) the correction of mistakes by us or the registry administrator in registering the domain name; or

(b) the resolution of disputes concerning the domain name.

9.18 You agree that if changes or modifications are made to the ICANN procedures or registry administrator procedure and you continue to maintain registration of your domain name after those changes or modifications become effective, you confirm your acceptance of those changes and modifications.

9.19 If there is a dispute regarding your domain name, you agree to submit to the jurisdiction of the courts as provided in the applicable procedures.

Website Builder Easy Software

9.20 The Website Builder Easy software allows you to create, edit and manage your own website. Each BigPond WebHosting plan comes with a set number of templates from which you can build your website.

9.21 We grant you a non-exclusive, non-transferable licence to use the Website Builder Easy software solely in connection with your BigPond WebHosting service.

9.22 You must not:

(a) use, or permit any person to use, the Website Builder Easy software in any way that is not permitted by these terms;

(b) use the software on behalf of, or for the benefit of, any other person; or

(c) disassemble, reverse engineer or create more than one copy of the software (unless you have a statutory right to disassemble, reverse engineer or create more than one copy of the software, in which case you must only do so to the extent permitted by your statutory right).

9.23 To the extent permitted by applicable law, we do not make any representations or express warranties with respect to Website Builder Easy. Our liability to you is set out in the liability section of these terms. However, notwithstanding anything in these terms, consumers may have the benefit of certain rights or remedies pursuant to Competition & Consumer Act 2010 and similar state and territory laws in Australia in respect of which liability may not be excluded. If so, then to the maximum extent permitted by law, such liability is limited if lawful to do so, at our option to either (i) resupply of Website Builder Easy or (ii) the cost of the resupply of Website Builder Easy provided it is fair or reasonable to do so. We resupply Website Builder Easy to you from our third party supplier. As a result we supply Website Builder Easy to you "as is". It is very important that you make your own investigations as to the suitability of Website Builder Easy for your purpose.

9.24 We reserve the right to upgrade or replace Website Builder Easy upon at least 30 days notice in Mission Control and via email. If we upgrade or replace Website Builder Easy we may, by giving you at least 30 days notice in Mission Control or via email:

(a) cease to continue to supply and/or support Website Builder Easy or the prior version of Website Builder Easy (as applicable); and

(b) use reasonable endeavours to migrate your published website content to the upgraded Website Builder Easy or the alternate website building software (as applicable) except as otherwise set out below.

9.25 We will not be required to migrate your published website content to the upgraded Website Builder Easy or the alternate website building software (as applicable) if:

(a) the upgraded Website Builder Easy or the alternate website building software (as applicable) does not have the capability to allow for such migration; or

(b) you fail to take all reasonable steps that we require in connection with the migration.

9.26 If we cease to continue to supply and/or support Website Builder Easy or the prior version of Website Builder Easy (as applicable) and you can demonstrate to our reasonable satisfaction that you will suffer more than a minor detrimental impact as a result of such cessation, you can terminate your BigPond WebHosting service with us within 60 days of the notice without payment of early termination charges or registry key charges and we will refund to you any unused portion of your monthly or yearly charges (as applicable).

9.27 If you do not tell us that you wish to terminate your BigPond WebHosting service within the 60 days above, and you continue using your service from the date on which we ceased to supply and/or support Website Builder Easy or the prior version of Website Builder Easy (as applicable), you will be deemed to have accepted this change to your service.

9.28 If your BigPond WebHosting service is terminated, all your website content will be permanently erased.

9.29 If you wish to deactivate Website Builder Easy only, all your then current unpublished content which you have entered into the Website Builder Easy interface will be permanently erased.

9.30 If you publish content using Website Builder Easy, all other content in your BigPond WebHosting account will be deleted.

Charges

9.31 You must pay the charges set out below for your BigPond WebHosting service within 14 days of the date of our invoice to you. We will only send you online invoices by making them available at the Mission Control panel. You must regularly check the Mission Control panel for your invoices.

9.32 A charge of $3.50 will apply if you request a paper invoice or we are required to send you a paper invoice as a result of your credit card auto-debit being denied.

9.33 The following hosting charges apply to your BigPond WebHosting service:

Hosting Charges	Bronze	Silver	Gold

BigPond Access customer	$9.95/month	$14.95/month	$19.95/month
	$115.95/year	$173.95/year	$231.95/year
Non BigPond Access customer	$11.95/month	$17.95/month	$23.95/month
	$143.40/year	$215.40/year	$287.40/year

A BigPond Access customer is a customer who has a current BigPond internet access service with us (for example, Dial-up, Satellite, ADSL, Cable, or Wireless).

9.34 If you become, or cease to be, a BigPond Access customer during the minimum term or renewal term (as applicable), the hosting charges which are payable by you will be adjusted effective from your next billing period. This means that if you pay monthly hosting charges, your monthly charge will be adjusted to the relevant BigPond Access customer monthly charge or non BigPond Access customer monthly charge (as applicable) effective from the following billing month. If you pay your hosting charges yearly in advance, your charges will remain at their current rate for the remainder of your term, but will be adjusted when you commence a renewed term.

9.35 If you are migrating from an existing Family or Small Business Hosting service we will waive your BigPond WebHosting charges for the first month.

9.36 Other charges for your BigPond WebHosting service are:

Other Charges	Bronze	Silver	Gold
One-off Setup charge	$35	$35	No set-up fee
Excess monthly download	15.4c per MB	15.4c per MB	Capped, but download traffic will be shaped to dial-up speed (56k)
Additional disk space	2.2c per MB	2.2c per MB	2.2c per MB
Extra mail box	$1 per mailbox per month	$1 per mailbox per month	$1 per mailbox per month
Extra administration fee for .com and .net	$2 per month or $24 per year (as applicable)	Not applicable	Not applicable
Site Move Fee (if applicable)	$135	$135	$135

Registry Key Charge (if applicable)	$25	$25	$25

9.37 The once-off set up charges are payable in advance. Hosting charges must be paid monthly or yearly in advance. Other charges are payable in arrears.

9.38 If you pay your hosting charges yearly in advance and choose to downgrade to a different plan during the minimum term or renewal term (as applicable) for your service, we will not be required to refund to you the difference in your hosting charges for the plans.

9.39 If you pay monthly hosting charges, you may not downgrade to a different plan during your minimum term or renewal term (as applicable).

9.40 If you pay your hosting charges yearly in advance and choose to upgrade to a different plan during the minimum term or renewal term (as applicable), you will be required to pay the pro rated difference between the plans for the balance of the term.

9.41 If you pay monthly hosting charges and choose to upgrade to a different plan during the minimum term or renewal term (as applicable), you will be required to pay the increased monthly fee for the upgraded plan for the balance of the term effective from the date of the upgrade.

9.42 If you pay your hosting charges yearly in advance and you cancel your service prior to expiry of the minimum term or the current renewal term, we will not refund any amount of the charges paid in advance.

9.43 Without limiting our rights under clause 2.2 or 2.9 of this Part, if you do not pay your invoice amount when it is due, we may do any or all of the following:

(a) if the amount remains outstanding for 30 days after the due date, terminate your service; and

(b) if the amount remains outstanding for 60 days and there are reasonable grounds for believing you represent a credit risk, terminate any other service that we provide to you.

Early Termination charges

9.44 Except for our material breach of these terms or as otherwise set out in these terms, if your BigPond WebHosting service is terminated prior to expiry of the minimum term, or the then current renewal term (as applicable), you must pay us an early termination charge equivalent to the balance of the charges payable for the remainder of the minimum term or the then current renewal term (as applicable) for your BigPond WebHosting service.

Taxes

9.45 The charges in the charges section for the BigPond WebHosting services may not include all taxes. You must pay us any applicable taxes that we include as part of your invoice for the service. Applicable taxes may include any stamp and other duties, fees, taxes (including GST) and charges relating to your BigPond WebHosting service.

9.46 If GST is imposed on any supply we make to you under Our Customer Terms and the consideration payable for the supply under any other clause of Our Customer Terms is not expressed to be inclusive of GST, you must pay us on demand an additional amount calculated by multiplying the value of that GST-exclusive consideration (without deduction or set-off) by the prevailing GST rate. We will issue a tax invoice to you for any supply on which GST is imposed.

9.47 Unless otherwise stated, all pricing, fees and charges stated in these terms for BigPond WebHosting are GST inclusive.

> "**GST**" and "**Tax Invoice**" have the same meaning as in the *A New Tax System (Goods and Services Tax) Act 1999 (Cth)*.

Service and Maintenance

9.48 The BigPond WebHosting service comes with telephone technical support and online technical support via the job logging system.

9.49 We may perform scheduled maintenance to the systems that we use to provide the service. We will attempt to perform all scheduled maintenance at times which will affect the fewest customers. If we expect scheduled maintenance will require the service to be unavailable for a continuous period of greater than 30 minutes, we will post details of the times during which the scheduled maintenance is due to occur on the Web Host System News at least 48 hours prior to the maintenance. It is very important that you check the Web Host System News regularly.

9.50 We may perform unscheduled maintenance to the systems that we use to provide the service. If the unscheduled maintenance requires the service to be unavailable for a continuous period of greater than 30 minutes, we will try to post details of the unscheduled maintenance on the Web Host System News beforehand (otherwise we will post the details after the maintenance has been completed).

9.51 We may migrate your website to a new operating system platform if any of our suppliers cease to provide support for the legacy operating system, if the server used to provide the service fails, or if we determine that the server has (or may) become unreliable. We will tell you beforehand if we intend to migrate your website to a new operating system platform.

Warranties

9.52 While we use due care and skill in providing the service to you, there may also be other non-excludable statutory guarantees, implied conditions or warranties under consumer protection laws (such as the Competition & Consumer Act 2010 and State and Territory Fair Trading Acts) that cannot be excluded which may apply to goods or services we supply to consumers, including that services be fit for their purpose. However, due to the nature of the service, we do not promise that:

(a) the service will be uninterrupted or error free;

(b) the service will meet your requirements; or

(c) the service will be free from external intruders (hackers), virus or worm attack, denial of service attack, or other persons having unauthorised access to the services or our systems.

9.53 You warrant that:

(a) you have the power to enter into and observe your obligations under these terms;

(b) you will conduct such tests and computer virus scanning as may be necessary to ensure that data uploaded by you onto, or downloaded by you from, our systems does not contain any computer virus and will not in any way, corrupt the data or systems of any person;

(c) you will keep secure any passwords used with the service; and

(d) you have, and will maintain, the necessary authority to grant the rights, consents, permissions and licences under these terms.

Liability

9.54 Your service is supplied on the terms expressly set out and subject to non-excludable rights under consumer protection laws. No other terms or rights apply. Other representations or statements we make to you, whether in person, over the phone or in advertising or other materials you received, are not part of these terms. However, you may have other legal rights in relation to those representations.

9.55 If you are a residential customer:

(a) except as set out in the paragraphs below, we accept our liability to you for breach of contract or negligence under the principles applied by the courts or breach of any non-excludable right under consumer protection laws;

(b) as your service is provided to you for the primary purpose of personal, domestic or household use, subject to law, we do not accept liability to you for losses that result from the use of your service in connection with the conduct of a business; and

(c) we are not liable for any loss to the extent that it is caused by you (for example, through your negligence or breach of contract).

9.56 If you are a business customer:

(a) we limit our liability to you where lawful to do so, for any losses caused by any interruption or delay to your service to an amount equal to the service charges billed to you for the affected service for the period of the interruption or delay;

(b) we accept our liability to you for breach of contract or negligence or breach of any non-excludable right under consumer protection law under the principles applied by the courts:

a) for any personal injury or death to you, your employees, agents and contractors in relation to the supply of the service;

b) for any damage to your property (real or tangible) resulting from the supply of the service, but we limit our liability to our choice of repairing or replacing the property or paying the cost of repairing or replacing it; and

c) unless paragraph (a) above applies, for any other cost or expense reasonably incurred as a direct result of our breach or negligence (but excludes loss of profits, likely savings and data), but we limit our liability, provided it is lawful to do so, for all such claims in aggregate to the total amount payable to us by you for the first year of your service;

(c) other than to the extent we have accepted liability under the clauses above, and for liability that cannot be lawfully excluded or limited under consumer protection laws, we exclude all other liability to you or a third party for breach of contract, negligence or any other cause of action. If we cannot lawfully exclude liability, but liability can be lawfully limited, our

liability is limited to resupplying or paying the cost of resupplying services and repairing, replacing or paying the cost of repairing or replacing goods;

(d) we are not liable for any loss to the extent that it is caused by you, your employees, agents or contractors; and

(e) notwithstanding any other term, we are not liable for any loss caused by us failing to comply with our obligations in relation to your service where that is caused by events outside our reasonable control (such as a failure in equipment that is not owned or operated by us, an industrial strike or an act of God).

9.57 You are liable to us if you breach these terms or act negligently under the principles applied by the courts. However, you are not liable for any loss we suffer to the extent that it is caused by us, for example, through our negligence or breach of these terms.

9.58 These provisions relating to liability will continue unaffected by cancellation or suspension of your service.

9.59 For the purposes of this liability section:

Business customer **means a customer who is not a Residential Customer.**

loss **means loss or damage of any kind, however caused, whether in contract, tort (including negligence), under any statute or otherwise arising from or related in any way to these terms or its subject matter.**

Residential customer **means a customer who takes up the service predominantly to use for personal, household or domestic use or consumption.**

Term, Suspension and Termination

9.60 You may cancel your BigPond WebHosting service by having the contact person listed on your BigPond WebHosting account log a request with Mission Control, or request cancellation via facsimile, letter or phone. A request for cancellation will not be accepted if you are unable to provide your logon name and password ("VS number"). Early termination charges and other charges may be payable in accordance with these terms if you cancel your service prior to expiry of your minimum term or the then current renewal term (as applicable).

9.61 If your BigPond Hosting service is terminated for any reason:

(a) you must immediately pay all charges owing up to the date of termination; and

(b) we may delete all of your data from our systems.

9.62 We may from time to time without notice suspend or disconnect your service or deny access to your service if:

(a) we reasonably consider that you have failed to comply with any provision of these terms (including failure to pay fees or charges due) and you do not remedy your non-compliance 14 days after we tell you to do so (if the non-compliance is of a kind that can be remedied) or immediately (if the non-compliance is of a kind that cannot be remedied);

(b) you breach our acceptable use policy; or

(c) you do, or allow to be done, anything which in our reasonable opinion have the effect of jeopardising the operation of the service.

9.63 You remain liable to pay all fees and charges set out in these terms during any period of suspension.

9.64 We may remove, amend or alter any data:

(a) upon being made aware of any claim or allegation, or any court order, judgment, determination or other finding of a court or other competent body, that the data is illegal, defamatory, offensive or in breach of a third party's rights (including intellectual property rights and moral rights); or

(b) if we reasonably consider that you have failed to comply with any provision of these terms.

We may not be able to tell you of this beforehand, but will give you notice within 14 days after we have removed, amended or altered the data.

9.65 We are not required to provide you with a copy of your data if:

(a) we suspend or disconnect your service or deny access to the service;

(b) you remove, amend or alter your data; or

(c) these terms are terminated (for any reason).

9.66 If we provide you with a copy of your data, then we are entitled to charge you an additional $135 fee to cover the cost of us recovering, and providing you with, that data.

Domain name and termination

9.67 If during the term of your BigPond WebHosting service your domain name registration is not renewed and your domain name registration period expires before the expiry of your minimum term or the then current renewal term (as applicable):

(a) we will cease to be the delegated domain administrator for your domain name on and from the expiry date of your domain name registration period;

(b) we will cease to have any ongoing responsibility to you in respect of your domain name on and from the expiry date of your domain name registration period;

(c) if you request we will provide you with your domain name registration key and password at no additional charge; and

(d) we will give you an opportunity to transfer your domain name to one of our other domain name services in which case the charges for that service will apply.

9.68 If you cancel or elect not to renew your BigPond WebHosting service and at the time of cancellation or expiry the registration period for your domain name has not yet expired:

(a) we will cease to be the delegated domain administrator for your domain name on and from the expiry date of your domain name registration period;

(b) we will not be required to renew, send you reminder notices about your domain name expiry or have any other ongoing responsibility to you in respect of your domain name;

(c) if you request we will provide you with your domain name registration key and password, provided that you have paid us any early termination charges and any other fees due to us under these terms including the registry key charge if applicable as set out below;

(d) we will give you an opportunity to transfer your domain name to one of our other domain name services in which case the charges for that service will apply; and

(e) we may repoint your domain name to a domain name page selected by us until your domain name registration period expires, you have transferred

your domain name to a different domain name registrar or reseller or you have redelegated your domain name.

Registry key charge

9.69 If at the time that your BigPond WebHosting service is cancelled or expires your domain name has already been renewed effective from or after the relevant cancellation or expiry date, you must pay us the registry key charge before we will provide you with your domain name registration key and password.

9.70 If at the time that your BigPond WebHosting service is cancelled or expires your domain name has already been renewed but is effective before the relevant cancellation or expiry date, you will not be required to pay the registry key charge before we provide you with your domain name registration key and password.

Additional terms

9.71 You must comply with:

(a) our acceptable use policy; and

(b) our operational procedures for the service which are set out in the Mission Control User Guide at https://mc-au.server-secure.com

9.72 If there is any inconsistency between the documents below, the document listed earlier prevails to the extent of inconsistency:

(a) these terms;

(b) our acceptable use policy; and

(c) our operational procedures for the service which are set out in the Mission Control User Guide at https://mc-au.server-secure.com.

Changes to these terms

9.73 Except as otherwise set out in these terms, we can change these terms (including any prices) in accordance the procedure set out below.

9.74 We will tell you at least 30 days before a change, unless:

(a) we need to make the change immediately in order to act legally or the change results from changes in the law. If this is the case, we will give you as much notice as we reasonably can; or

(b) we reasonably believe the change will benefit you, has no impact on you, or has neutral impact on you. If this is the case, we can make the change without telling you first.

9.75 When we tell you about changes to these terms we can do so by bill message, bill insert, direct mail or email (if you have an email address and have agreed for us to tell you about changes to Our Customer Terms by email). In addition to this notice, we may also publish a notice in a national newspaper.

9.76 If we make a change to your service and the change means that you are materially worse off (other than where we need to make the change in order to act legally or the change results from changes in the law), you may terminate your service by telling us within 42 days from when we tell you about the change. If you terminate your service, you will not have to pay us the early termination charge or the registry key charge and the service will be terminated from the date the change takes effect.

9.77 If you choose to cancel your service as a result of the change, we will refund you any unused portion of your monthly or yearly charges (as applicable).

9.78 If you do not tell us that you wish to terminate the service within 42 days after receiving notice of a change and you continue using the service from the date on which the change comes into effect, the changes will apply to you.

Miscellaneous

9.79 We will archive your hosted content onto backup mechanisms on a regular basis for the purposes of disaster recovery. In the event of equipment failure or data corruption, we will use reasonable endeavours to restore your hosted content from the last known good archive. Notwithstanding our backup regimes, you must maintain a recent copy of your hosted content at your premises at all times. You will ensure that all of your hosted content is accessible by us at the time that a backup is to be carried out (including ensuring that files are not locked or in use during this time). Any of your hosted content that is not accessible by us at the time that a backup is carried out will not be backed up. Due to technological limitations, we cannot promise that, and despite our reasonable care, backups will: (a) occur on every scheduled occasion, (b) be complete; or (c) be uncorrupted. We will not be liable for incomplete, out-of-date, corrupt or otherwise deficient data recovered from our backups where we have acted with reasonable care.

9.80 You are responsible for developing, installing and maintaining your hosted content. You must have appropriate and compatible equipment, software and Internet access to upload your hosted content to our systems.

9.81 You are solely responsible for dealing with persons who access your hosted content, and must not refer complaints or inquiries in relation to your hosted content to us.

9.82 You must pay all telecommunications costs and charges arising from or in connection with your BigPond WebHosting service.

9.83 You must adopt appropriate measures to ensure the security of your logon name, password and your hosted content. You are responsible for all use of your service (including payment of applicable charges) through the use of your logon name and password (whether or not that use was authorised by you).

9.84 You must advise us in a timely manner if you have reason to suspect that your BigPond WebHosting service is being used contrary to these terms.

9.85 We encourage you to use appropriate warnings and labelling systems for any of your hosted content that is likely to be considered unsuitable for children under Australian law and associated classification guidelines.[2]

9.86 The service is provided from data centres using shared infrastructure. We will determine, in our absolute discretion, the location from which your service is provided from time to time.

9.87 You grant to us all rights, consents, permissions and licences necessary to enable us and our subcontractors and suppliers to legally view, copy and store your hosted content for the sole purpose of performing our obligations under these terms.

9.88 No title in the software, hardware, infrastructure or facilities used by us to deliver the BigPond WebHosting service passes to you at any time.

9.89 If you provide us with your credit card details, you authorise us to charge all fees and charges to your credit card, and to disclose your credit card details to, and obtain information from, any financial institution or credit card issuer to verify the credit card details that you provide to us. You also authorise us to take steps to verify that there is sufficient credit on your credit card account to meet likely fees.

9.90 You consent to us obtaining a credit reporting agency report containing personal information about you (as well as information concerning commercial creditworthiness and activities) for the purpose of assessment by us of an application for credit (whether commercial or personal) or for the purpose of the collection of payments which are overdue.

[2] For more information please consult the Internet Industry Association guidelines at http://www.iia.net.au/guideuser.html or the Australian Communications and Media Authority at http://www.cybersmartkids.com.au/.

9.91 We collect, use and disclose personal information as set out in our "Protecting Your Privacy" Statement. The current version of our Privacy Statement is available at http://www.telstra.com.au/privacy/privacy_statement.html.

10 Telstra Broadband Protect

10.1 The Telstra Broadband Protect service consists of the following online security services:

(a) Network Protection for your Telstra home broadband service;

(b) Parental Controls for your Telstra home broadband service;

(c) Anti-Virus Plus Security for up to 6 compatible computers or devices;

(d) Safe Browser for up to 6 compatible computers; and

(e) Social Network Protection.

Each security service is described in more detail below in this Section 10.

The following features will no longer be available to customers to sign up for an eligible service after 15 December 2020, and will no longer be provided to new or existing customers after 31 March 2021:

(a) Anti-Virus Plus Security for up to 6 compatible computers or devices;

(b) Safe Browser for up to 6 compatible computers; and

(c) Social Network Protection.

Eligibility

10.2 The Telstra Broadband Protect service is available to be ordered by customers who have:

(a) one of the following Telstra Broadband services: current BigPond ADSL, Cable, FTTP, NBN and Wireless BigPond; and

(b) a 13 digit Telstra account number.

10.3 We will cancel your Telstra Broadband Protect service if the Telstra broadband service it was added to is no longer active.

10.4 We will provide you with the Telstra Broadband Protect service and will use reasonable care and skill in doing so. You must:

(a) not use, attempt to use or allow others to use your Telstra Broadband Protect service in a way that, in our reasonable opinion, significantly interferes with other Telstra broadband customers' use or enjoyment of the Telstra Broadband Protect service or other services or interferes with our efficient or proper operation of the Telstra Broadband Protect service;

(b) pay all fees and charges associated with your use of the Telstra Broadband Protect service;

(c) make sure you keep your account information and password secure; and

(d) regularly check both your Telstra or BigPond email address associated with your Telstra account and the preferred email address you gave us for messages about your Telstra Broadband Protect service.

10.5 We will use reasonable care and skill in providing the Telstra Broadband Protect service. However, given the nature of telecommunications systems (including the Telstra Broadband Protect services' reliance on systems and services not owned or controlled by us), we cannot promise that the Telstra Broadband Protect service will be continuous, accessible at all times or fault-free.

Software Installation

10.6 Where a security service requires software installation, you must ensure that if you install software on your computers and devices:

(a) that your computer(s) and device(s) meet the requirements set out on our website at http://telstra.com/broadbandprotect; and

(b) that your computer(s), device(s) and software on your computer(s) and device(s) are compatible with the applicable security service(s).

10.7 Installed software is set to automatically update as updates and enhancements become available. If you turn this off, you will need to manually update the software or the software may become less effective and provide less protection than software which has been updated.

What is Network Protection?

10.8 Network Protection helps protect each device connected to your Telstra home broadband network from:

(a) sites hosting known viruses and other threats loading in your web browser;

(b) sites promoting known "Scamware" loading in browsers and applications;

(c) known phishing sites loading in web browsers; and

(d) advertising loading in your browser and applications which are known to, once clicked, send you to sites which may attempt to steal your identity or install viruses and other threats on your computer or devices.

10.9 Network Protection is applied directly to your Telstra broadband service which you can manage from either:

(a) your Telstra Broadband Protect dashboard which is accessible from your Telstra My Account; or

(b) the Telstra 24x7 application on your compatible smartphone or tablet.

10.10 Network Protection is automatically enabled on your Telstra home broadband network once your order for Telstra Broadband Protect is completed and cannot be disabled unless you cancel your Telstra Broadband Protect service.

What is Parental Controls?

10.11 Parental Controls is content filter software that will apply to every computer and device connected to your Telstra home broadband network.

10.12 Parental Controls is applied directly to your Telstra broadband service which you can manage from either:

(a) your Telstra Broadband Protect dashboard which is accessible from your Telstra My Account; or

(b) the Telstra 24x7 application on your compatible smartphone or tablet.

10.13 Once activated, Parental Controls helps prevent users of every computer and device connected to your Telstra home broadband network from:

(a) visiting sites which we've categorised as containing content which you have chosen not to allow;

(b) using the internet at times you'd prefer it to be disallowed; and

(c) visiting sites categorised by us as social networking or gaming during specific times you've set.

What is Anti-Virus Plus Security?

10.14 Anti-Virus Plus Security helps protect computers and devices from known malware like viruses, spyware, trojans, worms, rootkits and other threats by:

(a) "on-demand" scanning files including email and instant message attachments for threats recognised by Anti-Virus Plus Security as they are accessed to stop them adversely affecting your computers and devices; and

(b) allowing you to run scheduled or manual scans of your entire computer or device.

10.15 Anti-Virus Plus Security is available for you to install on up to 6 of your compatible Windows and Mac computers or Android devices. The installer program can be accessed from your Telstra Broadband Protect dashboard which is accessed from your Telstra My Account.

10.16 Anti-Virus Plus Security also provides a firewall to help protect your incoming and outgoing traffic against potential hacker probes, attacks and other suspicious Internet traffic.

10.17 Anti-Virus Plus Security includes a console which is installed on Windows and Mac computers to allow you to easily access the Safe Browser, Parental Controls and Social Network Protection features of Telstra Broadband Protect.

What is Safe Browser?

10.18 Safe Browser helps protect against online identity theft by creating a separate place on your computer or device designed to lock out keyloggers, spyware and malware which may already exist on your computer or device.

10.19 Safe Browser is available for you to install on up to 6 of your compatible Windows computers either:

(a) from the Anti-Virus Plus Security console; or

(b) from your Telstra Broadband Protect dashboard in My Account.

10.20 Safe Browser on your Android devices is included when you install the Anti-Virus Plus Security app.

10.21 Safe Browser installs a plug-in into supported browsers on Windows to help identify websites which may benefit from the user using Safe Browser.

What is Social Network Protection?

10.22 Social Network Protection is an online service which helps monitor for certain types of behaviour on the following social networking sites:

(a) Facebook;

(b) Twitter;

(c) YouTube;

(d) Google Plus;

(e) Instagram; and

(f) certain other sites which we may notify you about from time to time.

10.23 Social Network Protection is web based protection connected directly to user accounts on supported social networks. It is available to all Telstra Broadband Protect customers and can be managed from your Telstra Broadband Protect dashboard which is accessed from your Telstra My Account.

10.24 Social Network Protection helps identify potentially problematic:

(a) posts on specific users' social networks based on keyword searches and sends alerts to the user's nominated email address or mobile phone number about such problematic posts; and

(b) connections/friends on specific users' social networks and sends alerts to the user's nominated email address or mobile phone number about such problematic connections/friends.

Limitations - Telstra Broadband Protect services

10.25 If you have more than one Telstra Broadband service, your Telstra Broadband Protect Network Protection and Parental Controls will only apply to the account which you have nominated at the time of ordering the service.

10.26 Telstra Broadband Protect Network Protection and Parental Controls only work if your internet connection uses the DNS addresses supplied by Telstra BigPond and does not use a proxy server. Telstra provides a webpage to help you check if the devices in your home are connecting via our DNS which is accessible from the Telstra Broadband Protect dashboard and the Telstra 24x7 app.

10.27 Telstra Broadband Protect Network Protection does not interrogate your traffic to filter viruses or spyware, it instead blocks access to sites serving or installing known malicious content.

10.28 Telstra Broadband Protect services cannot guarantee that:

(a) your systems will be completely protected from threats;

(b) viruses, Trojans, worms or other threats will be detected;

(c) your computers and devices will be kept free from all intrusions, hacking, spyware, pop-ups offensive material or other unauthorised activity;

(d) your online transactions will be secure or that your personal data will be secure;

(e) all fraudulent websites will be detected; or

(f) you or your family will be protected from threats in social networking sites.

Payment

10.29 There is a one month minimum term. Your subscription will automatically renew each month, unless you decide to cancel it. If you cancel Telstra broadband service to which Telstra Broadband Protect is connected, your Telstra Broadband Protect subscription will also be cancelled.

10.30 You must pay the monthly charge in advance, currently $9.95 (GST inclusive), until you cancel your service.

10.31 If you sign up to an eligible Telstra broadband bundle after 30 June 2015 and added Telstra Broadband Protect for no additional fee, you won't be charged for Telstra Broadband Protect whilst you remain on the eligible Telstra broadband bundle. If you cancel the eligible Telstra broadband bundle and retain the Telstra broadband service to which Telstra Broadband Protect is connected, you will then be charged the monthly fee of $9.95 for Telstra Broadband Protect, unless you cancel it.

10.32 All charges will be applied monthly to your Telstra bill from your service commencement date until such time as you terminate your service.

10.33 We will not refund any charges already on your account if you cancel your service and we will not pro-rata any charges. Pro-rata charges will only appear on your account if the price you are being charged for Telstra Broadband Protect changes during your normal billing month; for example if you were receiving a discount for Telstra Broadband Protect

as part of your Telstra home bundle, and you change your bundle so that discount no longer applies.

Charges and billing - General terms

10.34 You must pay the charges for your Telstra Broadband Protect service in full by the date specified on your Telstra bill.

10.35 We will charge you all fees and charges from your service commencement date until such time as you terminate your service to your Telstra Single Bill. The terms and conditions relating to Telstra Single Bill set out in Part A - General Terms for BigPond services of Our Customer Terms will apply to your Telstra Broadband Protect service.

10.36 If your Telstra Broadband service to which the Telstra Broadband Protect service relates, is terminated for any reason, we may issue a final invoice immediately upon termination of your Telstra broadband service.

10.37 We may choose to introduce other payment methods from time to time. We will advise you in advance if any alternative payment methods are available to you and offer you ways of accessing those payment methods

Telstra Online Security customers

10.38 If you are a Telstra Online Security customer who chooses to take up Telstra Broadband Protect using the same Telstra Broadband service:

(a) you must uninstall your Telstra Online Security and SafeCentral software on your computers before you install Telstra Broadband Protect Anti-Virus Plus Security or Safe Browser;

(b) if you add Parental Controls to your Telstra Broadband Protect service and already have them added in Telstra Online Security and continue to use Telstra Online Security, both controls will work concurrently and you may receive notifications from both services interchangeably;

(c) if you uninstall Telstra Online Security and had Parental Controls applied, you will need to enable Parental Controls in Telstra Broadband Protect;

(d) we will not refund any charges you have previously paid for Telstra Online Security, however we will not charge you for Telstra Online Security once your Telstra Broadband Protect order is completed successfully; and

(e) unless you cancel your Telstra Online Security, we may contact you advising you that we are migrating your existing Telstra Online Security service to Telstra

Broadband Protect (and cancelling your Telstra Online Security account) in accordance with the Telstra Online Security section of Our Customer Terms.

Telstra Broadband Protect dashboard in My Account

10.39 Telstra Broadband Protect customers can access the Telstra Broadband Protect dashboard at https://www.my.telstra.com.au/myaccount/ , and subject to the limitations below, you can use it to manage your Telstra Broadband Protect service(s) in the following ways:

a) cancel your Telstra Broadband Protect service;

b) change the protection level for Network Protection;

c) access and manage Parental Controls;

d) install the Anti-Virus Plus Security and Safe Browser software; and

e) access and manage Social Network Protection.

10.40 You must use the Telstra Broadband Protect dashboard in My Account in accordance with the terms of use, which are available at http://www.telstra.com.au/terms-of-use/.

Telstra Broadband Protect dashboard in Telstra 24x7 app

10.41 Telstra Broadband Protect customers can access the Telstra Broadband Protect dashboard in their Telstra 24 x 7 app, and subject to the limitations below, you can use it to manage your Telstra Broadband Protect service in the following ways:

a) cancel your Telstra Broadband Protect service;

b) change the protection level for Network Protection; and

c) access and manage Parental Controls.

10.42 You must use the Telstra Broadband Protect dashboard in the Telstra 24x7 app in accordance with the terms of use for the Telstra 24 x 7 app, which are available at http://www.telstra.com.au/terms-of-use/.

Your right to cancel your Telstra Broadband Protect service

10.43 We understand that, at some stage, you may no longer wish to continue with your Telstra Broadband Protect service for a number of reasons. You may cancel your Telstra Broadband Protect service at any time by cancelling the service online at https://www.my.telstra.com.au/myaccount/, in the Telstra 24x7 app or by calling us on

1800 429 444. However, if you cancel your Telstra Broadband Protect service under this clause you will not be entitled to any refund of service for that month.

Our rights to cancel your Telstra Broadband Protect services

10.44 In addition to our rights under the General Terms section of Our Customer Terms, we may cancel your Telstra Broadband Protect service or any of its component security services if:

(a) you are in serious breach of this Section 10. You will be in serious breach if you breach your obligation to:

(i) do not pay our charges for the Telstra Broadband Protect service;

(ii) install and use the applicable security service(s) on more than the permitted number of computers and devices; or

(iii) do not use the Telstra Broadband Protect service only in accordance with the software licence terms set out in this Section 10; and

(b) we have notified you in writing of your breach and you have failed to remedy the breach within 30 days of our notice (if the breach can be remedied). If the breach is something which cannot be remedied, we may immediately terminate your Telstra Broadband Protect service with notice to you. The serious breaches mentioned above (other than failure to pay our charges) are breaches that are not capable of remedy.

10.45 If we cancel your Telstra Broadband Protect service under the above paragraph, you will not be entitled to any refund of charges you have paid.

10.46 We may suspend your Telstra Broadband Protect service during the 30 day notice period before we terminate your security Telstra Broadband Protect service. If we do suspend your Telstra Broadband Protect service, we will reimburse any monthly fees (pro-rated if necessary) that you paid during the suspension.

Our right to migrate your service

10.47 At any time, we may (but are not required to do so) migrate you to an alternative service or pricing plan on a month by month basis by providing to you reasonable prior notice. If you are not satisfied with the alternative service or pricing plan, you may cancel your Telstra Broadband Protect service in accordance with clause 10.43 above, or choose from an alternative plan or pricing option (if available).

10.48 From time to time we may notify you of any alternative plans or pricing options we currently offer at that time.

Maintenance of the service

10.49 We encourage you to use our technical support services for genuine problems with your Telstra Broadband Protect service. We will use all reasonable efforts to rectify the problem as soon as possible after you notify us of the problem.

10.50 You may notify us of a problem by submitting a request for technical support services via the website https://service.telstra.com.au/customer/forms/leave-it-with-us

Our liability to you

10.51 If you are a Telstra Broadband residential customer, our liability to you is as set out in the General Terms section of Our Customer Terms.

10.52 If you are a Telstra Broadband business customer:

(a) given the nature of telecommunications systems (including the Telstra Broadband Protect service's reliance on systems not owned or controlled by us) we cannot promise that your Telstra Broadband Protect service will be continuous or fault free. Accordingly, if it is lawful to do so under consumer protection laws, we limit our liability to you for losses resulting from any interruption or delay to your Telstra Broadband Protect service to an amount equal to the charges billed to you for the Telstra Broadband Protect service for the period of the interruption or delay;

(b) we will not be responsible for any loss or damage arising from circumstances outside our reasonable control, save where we accept liability arising from our breach of contract or negligence or breach any non-excludable right under consumer protection laws:

(i) for any personal injury or death to you, your employees, agents and contractors in relation to the supply of your Telstra Broadband Protect service;

(ii) for any damage to your real or tangible property resulting from the supply of your Telstra Broadband Protect service, but it is lawful to do so, we limit our liability to our choice of repairing or replacing the property or paying the cost of repairing or replacing it; and

(iii) unless clause 10.52(a) applies, for any other cost or expense you (or, if you are a group administrator, your group member) reasonably incur that is a

direct result of, and flows naturally from, such breach or negligence (but excludes loss of profits, likely savings and data), but we limit our liability provided it is lawful to do so for all such claims in aggregate to the total amount payable to us by you under this Section 10 in respect of the first year of the minimum term for your Telstra Broadband Protect service;

(c) other than for the liability we accept under this Section 10, and for liability that cannot be lawfully excluded or limited under consumer protection laws, we exclude all other liability whether to you or a third party for breach of contract, negligence or breach of any other law. For any liability which cannot lawfully be excluded but can be limited our liability is limited to resupplying or paying the cost of resupplying services and repairing, replacing or paying the cost of repairing or replacing goods; and

(d) notwithstanding anything else in this Section 10, our liability will be reduced to the extent the loss or damage is caused by you (or, if you are a group administrator, your group member), your employees, agents or contractors.

Information

10.53 Clause 15 of Part A of the General Terms for BigPond services applies to the Telstra Broadband Protect service, where for the avoidance of doubt, any reference to the 'service' in that clause is a reference to the Telstra Broadband Protect service.

Transferring your Telstra Broadband Protect service or rights under this Section 18

10.54 Your rights under the terms belong to you alone. You may not transfer your rights and obligations in respect of your Telstra Broadband Protect service or this Section 10 without our prior consent. Our consent will not be unreasonably withheld.

10.55 From time to time, we may need to ask another party to provide some aspect or component of the Telstra Broadband Protect service to you. We may transfer or novate any of our rights or obligations under this Section 10 to a reputable, credit worthy third party who agrees to be bound by our obligations under this Section 10. We will tell you if this happens.

Right of use

10.56 Subject to your compliance with this Section 10, your subscription to the Telstra Broadband Protect service is for your own personal use only. Where an applicable security service permits you to use the software on multiple computers or devices, you must limit your use to that specified number.

10.57 The software for Anti-Virus Plus Security and Safe Browser is "in use" on a PC or device when it is installed on that computer or device.

10.58 Your right of use is non-exclusive. We reserve all rights not expressly granted to you in this Section 10.

Software licences

10.59 Any software that is part of the Telstra Broadband Protect service is owned by us and our suppliers or licensors and is protected by copyright laws and international treaty provisions.

10.60 We and our suppliers and licensors own and retain all right, title and interest in and to the software, including but not limited to all patents, trademarks, copyrights, trade secrets and other intellectual property rights embodied or contained in the software.

10.61 Clauses 14.2 and 14.3 of Part A of the General Terms for BigPond services apply to the Telstra Broadband Protect service.

Warranties

10.62 While we use reasonable care and skill in providing the Telstra Broadband Protect service to you, there are also other non-excludable statutory guarantees, implied conditions or warranties under consumer protection laws (such as Competition & Consumer Act 2010 and State and Territory Fair Trading Acts) that may apply to goods or services we supply, including that services be fit for their purpose. However, due to the nature of the Telstra Broadband Protect service, it, or its component security services may not be available or may become unavailable due to any number of factors including, without limitation, acts of God, technical failure of the service, telecommunications infrastructure, or delay or disruption attributable to viruses, denial of service attacks, increased or fluctuating demand, actions and omissions of third parties, or any other cause reasonably beyond our control.

This clause is not intended to limit your rights under consumer protection legislation.

Taxes

10.63 Clause 17 of Part A of the General Terms for BigPond services applies to the Telstra Broadband Protect Service, where for the avoidance of doubt, any reference to “your plan” or the ‘service’ in that clause is a reference to the Telstra Broadband Protect Service.

General

10.64 Neither party waives any of its rights under this Section 10 merely because it does not exercise them, or there is a delay in our exercising them.

10.65 This Section 10 is governed by the laws of the Australian State or Territory in which you are connected to the service.

10.66 If we need to notify you of any matters relating to this Section 10 we may use post, fax, or email to the default email address we allocated to you. You must regularly check any email address that you provide to us.