

## TERMS AND CONDITIONS FOR EACH SERVICE

(To be read in conjunction with ABG web page information at [http://www.bbw.net.au/broadband\\_guarantee](http://www.bbw.net.au/broadband_guarantee))

### Introduction to Contract Terms and Conditions

This document describes your contract with Broadband Wireless Pty Ltd (ABN 78 096428 634) trading as BBW Telecom "BBW Telecom") for the provision of Australian Broadband Guarantee (ABG) services. BBW Telecom will receive a subsidy from the Commonwealth Government to provide services to you, and in return BBW Telecom is bound by DCITA to provide certain safeguards to you.

### Agreement

### REFERENCES

The following documents are referenced throughout this Agreement, and are hereby made part of this Agreement.

### DEFINITIONS

In this agreement the following terms shall, unless the context otherwise requires, have the following meaning:

"Agreement" shall extend to and include every amendment; extension, renewal or variation of this agreement and every further agreement entered into by the parties to this agreement and shall also include the Schedules, Annexes and any attachments.

"Broadband Guarantee" means the Australian Broadband Guarantee program (Full Program) administered by the Department of Communications, Information Technology and the Arts.

"Broadband Guarantee Services" means an Internet access service meeting the performance and pricing requirements of Broadband Guarantee (described under Section 4.6 of the Broadband Guarantee Program Guidelines) that is registered under the Program and included for supply by a Provider under its Deed.

"Commencement Date" means the date the service commences.

"Customer Hardware" means any computer hardware owned or operated by The Customer.

"Customer Software" means any computer software owned or operated by The Customer.

"Fees" means the service charges payable by The Customer as specified in the application form.

"Metropolitan Area" means within a radius of 50kms from Hobart GPO, Launceston, Devonport and Burnie GPO's.

"Resource" means any person or persons allocated by BBW Telecom for the purposes of carrying out work as described in Schedule [1].

"Response" means BBW Telecom respond by phone, dial- in or on-site to a call logged by The Customer.

"Schedule" means a schedule annexed hereto as amended by the parties in writing from time to time.

"Existing User" means any client of The Customer (as of contract commencement date).

"New or Potential User" means any client or potential client of The Customer (as of contract commencement date).

### INTERPRETATION

This agreement shall constitute the entire understanding between the parties relating to the Services to be undertaken and shall supersede any previous communications, representation or agreements by either party whether written or verbal. No change in terms and conditions shall apply unless agreed in writing by both parties.

### RESPONSIBILITIES

BBW Telecom shall from the Commencement Date and continuously thereafter during the term of the Agreement provide the Communication Services support to The Customer at the defined Service Levels. BBW Telecom shall carry out the Services from a location deemed appropriate by BBW Telecom.

BBW Telecom will provide to the customer a 24x7 call desk for logging of communication issues. The call desk will operate from 8:00am to 6:00pm Monday to Friday, with an after hours paging service.

BBW Telecom provides a fault finding reporting service which operates 24 hours per day and seven days per week

Where BBW Telecom requires access to The Customer premises for the purposes of carrying out the Services, BBW Telecom personnel or sub-contractors will comply with The Customer security regulations.

BBW Telecom shall exercise all reasonable skill and care in the performance of the Services.

The Customer will provide BBW Telecom all necessary information for BBW Telecom to carry out the Services.

The Customer will be responsible for any costs associated with equipment owned or operated by The Customer and must comply with BBW Telecom's Customer Usage Policy located at BBW Telecom's website <http://www.bbw.net.au>.

When BBW Telecom requires access to The Customer premises for the purposes of carrying out the Services, access will be given by The Customer.

Customer Complaints are considered by a sub-committee of the BBW Telecom Board which comprises the Managing Director and the Technical Services Manager

The Customer is responsible for user documentation arrangements and queries relating to new and/or potential Customer requirements.

### Broadband Guarantee specific responsibilities

In the event of any inconsistencies between these Broadband Guarantee -specific Terms and Conditions and the general Terms and Conditions, these Broadband Guarantee specific Terms and Conditions will take precedence.

BBW Telecom will not change these terms and conditions without first obtaining approval from the Department of Communications, Information Technology and the Arts.

The Customer may migrate between Broadband Guarantee services within the technology platform and is always entitled to return to the original Broadband Guarantee service

The overall price of the Broadband Guarantee Service being provided will not be increased for three years from the commencement of the provision of the service.

BBW Telecom commits to provide a Service with average data download and upload speeds of at least 90% of the Service's nominated peak speeds at least 75% of the time as measured according to a prescribed Broadband Guarantee testing schedule. BBW Telecom commits to the Service being available at least 99% of the time, averaged over a quarterly period.

The Customer can test the data speed of their Service at <http://www.bctest.com.au/speedtest.html>. BBW Telecom will provide an online means for Customers to check their usage on at least a daily basis

BBW Telecom commits to provide the Customer with full information about the Service, as required by Broadband Guarantee.

The Customer agrees to make necessary information available and provide a truthful attestation so that BBW Telecom can make a Broadband Guarantee claim.

BBW Telecom commits to the connection of a new Service within 30 days of the Customer signing the contract. In the event of a Service outage or fault for which BBW Telecom is responsible, the onsite response within 100 Kms of major urban centres are within a four hour time frame, provided through remote hands agreements with service suppliers.

### EXCLUSIONS

BBW Telecom will not be held liable for any changes that may be made to the customer infrastructure.

### CONFIDENTIAL INFORMATION

For the purpose of this agreement "Confidential Information" shall mean any information that:

- is by its nature confidential;
- is designated as confidential in writing; or
- the receiving party knows or ought to know is confidential; but shall not include confidential information which:
  - is already in the receiving party's possession
  - is or becomes publicly available
  - is disclosed under operation of law

Customer agrees to allow their personal information provided in the application and attestation forms and related documents to be provided by BBW Telecom to DCITA, and potentially other appropriate agencies for the purposes of program administration, regulation and evaluation, and policy development.

Except where it is agreed to in this Agreement, neither party without the written approval of the other party (which approval shall not be unreasonably withheld) shall make public or disclose to a third party any information about this Agreement or any confidential information.

Both parties agree that they will use the same degree of care to avoid unauthorized dissemination or publication of the confidential information that it uses with respect to its own confidential information.

### ASSIGNMENT

BBW Telecom shall not assign the whole or part of the contract to another party without the prior written consent of the Customer.

### PAYMENT TERMS

The customer bill will include:

- The date
  - Data usage for each service
  - Cost incurred for each service
  - Session duration is not indicated because all services are always on
- Payment will be due 30 days from the date of BBW Telecom's invoice. The Fees will be invoiced in advance as set out in the application form.

If The Customer fails to pay any sum when due after 30 days of written notice, BBW Telecom may discontinue service under this Agreement until payment is received, without breach of this Agreement.

### TERM

This Agreement shall start on the Commencement Date and continue for eighteen (18) months. At the end of the period, both parties will review this Agreement, with a view for extension as deemed appropriate by both parties.

Either party may terminate this Agreement without cause upon 8 weeks written notice. If either party becomes insolvent, is unable to pay its debts when due, ceases to operate in the normal course of business, has a receiver appointed, or has its assets assigned, it shall be considered a breach and the other party may cancel any unfulfilled obligations and terminate for cause without notice.

### Broadband Guarantee Specific Responsibilities:

This contract will operate for a period of 18 months from the date of service commencement.

At the conclusion of the initial 18 month contract the Customer has the right to renew for a further 12 months at a monthly price no greater than the original contracted Price. The maximum term of the Broadband Guarantee Service may not exceed 36 months from initial Service commencement.

### EXIT STRATEGY

If BBW Telecom's Registration is terminated (voluntarily or otherwise) the Customer may elect to terminate the Customer contract and that in the event that the Customer's Service is withdrawn, BBW Telecom will give the Customers at least thirty (30) calendar days written notice of the withdrawal and offer to migrate the Customer from the withdrawn Service to a comparable Service, if such a service is available; or if no comparable Service is available, offer to migrate the Customer to any of its Threshold Service(s), or Added Value Service(s) as chosen by the Customer; and give the Customer the option of terminating the contract if they are not satisfied with the comparable service offerings. The Customer will retain ownership of the CPE.

### REVIEWS

BBW Telecom and The Customer shall each nominate a Manager to be its single interface and point of contact for the duration of the Agreement.

The parties, including nominated Managers, will meet at mutually agreed times and locations to discuss issues arising in connection with execution of this Agreement by BBW Telecom and The Customer.

This Agreement is made under and shall be construed in accordance with the laws of the State of Tasmania.

Any individual executing this Agreement on behalf of either party represents and warrants that he or she has been fully empowered to execute this Agreement and that all necessary action to authorise the execution of this Agreement has been taken.