

## NBN CONNECT SERVICE SCHEDULE

### WHOLESALE PRODUCT

- Australia -

#### 1. DEFINITIONS

1.1. Defined terms in the Standard Terms and Conditions have the same meaning in this Service Schedule unless expressed to the contrary. In this Service Schedule, unless the context otherwise requires:

**Broadband Aggregation Access** means physical connectivity from the Ethernet Network Edge Switch to the Network Boundary at the relevant End User's premises.

**Broadband Aggregation PoP** means a network device within an exchange from which a Broadband VLAN is provisioned.

**Broadband Service** means a single virtual circulate for the provision of IP over Ethernet connectivity between the Network Boundary for the Broadband Service and a Broadband Aggregation PoP.

**Broadband VLAN** means a local Ethernet connection between a Broadband Aggregation PoP and a Broadband Aggregation Access.

**Business Day** means a day that is not a Saturday, Sunday or public holiday in the State of Victoria.

**Carriage Service** has the meaning given to that term in the Telecommunications Act.

**Carriage Service Provider** has the meaning given to the term in the Telecommunications Act.

**Carrier** has the meaning given to the term in the Telecommunications Act.

**Coverage Area** means a geographical area in which Vocus is able to supply a Service to the Customer.

**Digital Call** means a voice call which is carried over IP (internet protocol) and SIP (session initiation protocol).

**End Users** mean a customer of the Customer.

**End User Details** means all information about the End Users in the Customer's possession or control including, but not limited to, full name, billing address, street address and, if applicable, details of ordered and supplied Services.

**Ethernet** means the protocols defined by the IEEE 802.3 standard, as amended from time to time.

**Ethernet Network Edge Switch** means a network device within an exchange from which a Broadband Aggregation Access is provisioned.

**Guidelines** means the document titled "NBN Co Fibre Premises Equipment – Optional Battery Backup – Informed Consent Guidelines and Checklists" published by NBN Co and dated 23 October 2013, a copy of which is made publically available by NBN Co.

**Incompatible Product** means the kinds of products which are not compatible for use with the Service, as set out in the Vocus Documentation or otherwise notified to the Customer from time to time. Examples of such products include products which will, or are likely to, cause the Customer to contravene, or contribute to a contravention of, clause 5.3.

**Informed Consent** means:

- (a) the Customer has informed and made the End User aware of the effect on the Service and Related Equipment if a back-up battery PSU is, or is not, supplied in respect of the Service; and
- (b) the End User has provided consent to the Customer placing an order to connect or modify a Service, in which it is requested that a back-up battery PSU is, or is not, supplied in respect of the Service.

**IP** means Internet Protocol.

**Monitoring Service** means a monitoring service acquired by an End User and used or installed at, or in respect of, the relevant premises, including, but not limited to a remote alarm service or a back-to-base alarm or monitoring service.

**NBN Broadband Service** means a Broadband Service that is:

- (a) supplied by NBN Co to Vocus (or a Related Body Corporate of Vocus); and
- (b) is delivered using the NBN Co Network.

**NBN Co** means NBN Co Limited (ACN 136 533 741).

**NBN Co Business Rules** has the meaning given to the term 'Business Rules' in the NBN Co Supply Terms.

**NBN Co Copper Pair** has the meaning given to that term in the NBN Co Supply Terms.

**NBN Co Fibre Network** means the optical fibre network that is owned or controlled by, or operated by or on behalf of, NBN Co (or any Related Body Corporate of NBN Co), other than the NBN Co FTTB Network and the NBN Co FTTN Network, as defined in the NBN Co Supply Terms.

**NBN Co Footprint** means the geographic area serviced by the NBN Co Network.

**NBN Co FTTB Network** means the fibre to the building network that is owned or controlled by, or operated by or on behalf of, NBN Co (or any Related Body Corporate of NBN Co), comprising solely optical fibre and copper or aluminium lines, as defined in the NBN Co Supply Terms.

**NBN Co FTTN Network** means the fibre to the node network that is owned or controlled by, or operated by or on behalf of, NBN Co (or any Related Body Corporate of NBN Co), comprising optical fibre and copper or aluminium lines, as defined in the NBN Co Supply Terms.

**NBN Co Network** means the NBN Co Fibre Network, the NBN Co FTTB Network, the NBN Co FTTN Network, the NBN Co Satellite Network and the NBN Co Wireless Network.

**NBN Co Satellite Network** means the satellite network that is owned or controlled by, or operated by or on behalf of, NBN Co (or any Related Body Corporate of NBN Co).

**NBN Co Supply Terms** means the terms and conditions in connection with the supply of services by NBN Co to Vocus, as published in NBN Co's 'Wholesale Broadband Agreement' (and associated documents) and made available from time to time by NBN Co on its website. Where multiple versions of NBN Co's 'Wholesale Broadband Agreement' apply at the same time, Vocus will, on request, notify the Customer which version applies to Vocus.

**NBN Co Wireless Network** means the wireless network that is owned or controlled by, or operated by or on behalf of, NBN Co (or any Related Body Corporate of NBN Co).

**NBN Voice Service** means a Voice Service that is delivered using the NBN Co Network whether or not that Voice Service is supplied

to Vocus (or a Related Body Corporate of Vocus) by NBN Co.

**Network Connect** means a layer 2 version of the Service.

**Network Boundary** means:

- (a) for a Broadband Service:
  - (i) if Vocus supplies a network gateway – the data port on the residential gateway device at the End User's premises which is supplied by Vocus; or
  - (ii) if Vocus does not supply a network gateway – the data port on the network termination device at the End User's premises which is owned, operated or controlled by NBN Co; and
- (b) for a Voice Service:
  - (i) if Vocus supplies a network gateway – the voice port on the residential gateway device at the End User's premises which is supplied by Vocus; or
  - (ii) if Vocus does not supply a network gateway – the voice port on the network termination device at the End User's premises which is owned, operated or controlled by NBN Co.

**Network Upgrade** means the maintenance or upgrade of the Vocus Network, the NBN Co Network or a relevant Supplier Network.

**Personnel** includes the agents, employees, contractors, subcontractors, trustees, representatives and officers of a person.

**Priority Assistance** has the meaning given to that term in the Priority Assistance for Life Threatening Medical Conditions Code ACIF C609:2007.

**Priority Customer** has the meaning given to that term in the Priority Assistance for Life Threatening Medical Conditions Code ACIF C609:2007.

**Provisional Priority Customer** has the meaning given to that term in the Priority Assistance for Life Threatening Medical Conditions Code ACIF C609:2007.

**PSU** means power supply unit.

**Related Equipment** means hardware and

other equipment supplied by Vocus, NBN Co or a relevant Supplier to the Customer, or an End User of the Customer, in connection with the supply of the Service to the Customer. Related Equipment includes a residential gateway device and a network termination unit.

**Relevant Exemption** means an instrument made pursuant to subsection 141A(1) and subsection 144(1) of the Telecommunications Act.

**Service** has the meaning described in clause 3.1.

**Service Orders** means an order in Vocus' standard format, whether written or in electronic format, for the provision of a Service, which includes details of the Initial Term and Charges for Service provided, which has been agreed by Vocus.

**Service Qualification** means the analysis carried out by Vocus, NBN Co or a relevant Supplier to determine whether a Service can be provided, or can continue to be provided.

**Standard Terms and Conditions** means the standard terms and conditions between Vocus and the Customer governing the general terms and conditions of the Services provided under this Service Schedule and any applicable Service Order from time to time, available at <http://www.vocus.com.au/legal-contracts>.

**Supplier Footprint** means the geographic area serviced by the Supplier Network.

**Supplier Network** means each of the satellite, wireless, copper, aluminium and optical fibre networks owned or controlled by, or operated by or on behalf of, a Supplier (or any Related Body Corporate of Supplier) where those networks are used (whether in whole or in part) in connection with the supply of the Service to the Customer.

**Support Hours** means the hours between 8am and 8pm (AEST) on any Business Day and between 10am and 6pm (AEST) on Saturdays as varied by Vocus from time to time.

**TC-1** means an NBN Co network feature that enables committed information rate with defined latency, jitter and loss characteristics and is suitable for applications that require highly deterministic traffic such as voice.

**TC-2** means an NBN Co network feature that enables support for latency sensitive interactive applications such as video conferencing and is delivered as a committed information rate with defined latency, jitter and loss characteristics.

**Vocus Documentation** means the Vocus standard procedures governing the supply of the Services and the manner and process by which the Customer must undertake its duties and functions under the Agreement and as notified or provided to the Customer, as amended by Vocus from time to time.

**Vocus SLA** means the Vocus service level agreement which can be found at <http://www.vocus.com.au/legal-contracts>, as updated from time to time.

**Voice Services** means the Service which, subject to the terms of this Agreement:

- (a) enable an End User to make and receive Digital Calls;
- (b) includes the supply of:
  - (i) a telephone number;
  - (ii) subject to Vocus' agreement, the listing of the telephone number in a telephone directory; and
- (c) includes such other components as Vocus may determine from time to time.

**Vocus Network** means any telecommunications network, equipment, or facilities, or cabling owned, controlled or operated by or on behalf of Vocus.

**Vocus Footprint** means the geographic area serviced by the Vocus Network.

#### Interpretation

- 1.2. In this Service Schedule if the Customer is required to ensure that a person does an act, or does not do an act:
  - (a) to the extent that the Customer has or will have a contractual relationship with such person (or it is prudent and general practice for the Customer to have a contractual relationship with such person) and without limiting the generality of the Customer's obligation to ensure that the person does the act or does not do the act, the Customer must include a corresponding provision in the Customer's contract with each such person; and
  - (b) the Customer must:
    - (i) promptly enforce the provisions of that contract if the person does not comply with that provision; and

- (ii) take all reasonable steps to prevent any anticipatory, threatened or likely breach of the contract, including seeking urgent interlocutory relief to restrain the breach.

## 2. THE SERVICE

- 2.1. This Service Schedule applies to the delivery of Services. This Service Schedule will apply to the first and any subsequent Service Orders for the Service.
- 2.2. Vocus will provide the Services to the Customer on the terms of the Standard Terms and Conditions, this Service Schedule and any applicable Service Orders, all of which are binding on the Customer. The Customer must use the Services (and must ensure that its End Users use the Services) in accordance with the terms of the Standard Terms and Conditions, this Service Schedule, any applicable Service Orders and all applicable laws.

## 3. SCOPE OF SERVICES

- 3.1. The Service is for the supply of:
  - (a) a NBN Broadband Service; or
  - (b) a NBN Voice Service; or
  - (c) both a NBN Broadband Service and a NBN Voice Service,

over the NBN Co Network and Vocus Network whether as a layer 2 service or a layer 3 service and as further described in the Vocus Documentation (“Service”).

## 4. SUPPLY OF SERVICE

### Service Availability

- 4.1. The Service is not available in all geographical areas. Vocus will notify the Customer of Coverage Areas from time to time.
- 4.2. The Customer agrees that the Customer will not have an unlimited ability to order the Service. The availability of the Service will be subject to a progressive roll out which will be notified by Vocus to the Customer from time to time. Without limiting the foregoing, the Customer must not place an order for a Service which is supplied by means of the NBN Co FTTB Network or NBN Co FTTN Network until the date notified to the Customer by Vocus.
- 4.3. The Customer acknowledges that the Service is only available where both an NBN Co Footprint and Vocus Footprint exists and

further, to the extent that Vocus also relies on a Supplier (other than NBN Co to supply the Service) within the Supplier Footprint.

- 4.4. Vocus may refuse any request by the Customer for the supply of a Service for any reason in its sole and absolute discretion, including if:
  - (a) the relevant End User’s premises is located outside a Coverage Area; or
  - (b) the Service does not pass Service Qualification or does not otherwise meet the requirements set out in the Vocus Documentation; or
  - (c) capacity, interference, technical capability or other technical matters affecting the NBN Co Network, Vocus Network or a relevant Supplier Network at the relevant time preclude, or would unduly delay or affect, the provision of that Service.

- 4.5. With respect to Network Connect, the Customer acknowledges that the rates offered to Customer for the Service are conditional on the number of Services supplied to End User premises serviced by a Non-Metro NBN POI not exceeding a certain proportion of the aggregate number of Services supplied to End Users from time to time (**Specified Proportion**) which is determined by Vocus in its sole and absolute discretion. The Specified Proportion may vary from time to time in accordance with clause 16.1(c). Without limiting any other right available to Vocus, Vocus may refuse any request by the Customer for the supply of a service if, as a result of the supply of the Service, Vocus considers that the Specified Proportion will be exceeded (as determined by Vocus in its sole and absolute discretion).

### Installation and Access

- 4.6. The Customer must:
  - (a) promptly upon request from Vocus, provide Vocus with IP address ranges in each State to be used in routing traffic which complies with the specification for the Service, as notified by Vocus from time to time; and
  - (b) provide, or ensure that the End User provides, power for the Service at the End User’s premises.
- 4.7. The Customer must ensure that Vocus, a relevant Supplier or NBN Co (as applicable) are provided with safe and timely access to any premises (or any internal or external part of any premises) where that access is necessary or desirable for:



- (a) the supply of the Service (including the installation of Related Equipment);
- (b) the delivery, installation, connection, inspection, modification, replacement, maintenance, performance, service, reinstatement or other work on, or in relation to, the NBN Co Network, Vocus Network or the Supplier Network, whether or not directly related to the supply of the Service; and
- (c) the exercise by NBN Co of its rights or powers or the performance or satisfaction of its obligations and liabilities under the NBN Co Supply Terms.

4.8. If another Carrier or Carriage Service Provider places an order for a product to be supplied over an NBN Co Copper Pair and the Customer is the supplier of an existing fixed line voice or fixed line broadband service over the same NBN Co Copper Pair, the Customer irrevocably consents to Vocus, NBN Co, their Related Bodies Corporate and each of their respective Personnel carrying out activities necessary to supply the relevant service to that other Carrier or Carriage Service Provider.

#### Consents, Obligations and Acknowledgement

- 4.9. The Customer acknowledges and agrees that:
- (a) the connection of, or migration to, a Service at a premises that is serviced may ultimately result in all fixed telephone and broadband services at the premises being provided, or being only capable of being provided, over the same communications line as the Service, whether or not those fixed line voice or fixed line broadband services are supplied by Vocus;
  - (b) the Service which is supplied by means of the NBN Co FTTB Network or the NBN Co FTTN Network cannot be supplied over the same line as non-voice Carriage Service supplied by means of a copper network and each such non-voice Carriage Service will be automatically disconnected;
  - (c) if a third party places an order with Vocus, NBN Co or third party supplier for the supply of a product which results in the disconnection of the services ordered by the Customer (whether the Services or

other services) at the relevant Premises, without limiting the Customer's rights against the third party, the Customer authorises Vocus and NBN Co to cause that disconnection (and this authority is also held for the benefit of NBN Co);

- (d) following receipt by Vocus of a request from the Customer to activate a Service, Vocus, NBN Co or the relevant Supplier may disclose to service providers of fixed telephone and broadband services and to end users at the End User premises that the Customer has requested a Service or a service of the same kind as the Service;
- (e) Vocus, NBN Co or the relevant Supplier may contact any End User of the Customer in respect of the Service for the purpose of connecting, migrating, maintaining or repairing the Service or any Related Equipment; and
- (f) Vocus, NBN Co and the relevant Supplier may publish the Customer's name as a provider of Broadband Services and Voice Services on a website to be advised to the Customer from time to time.

4.10. In order for the Customer to receive Network Connect, the Customer must have in place connectivity from Customer's Premises to one of Vocus' data centres outlined in the Vocus Documentation.

#### Customer Warranties

- 4.11. Before placing an order or making a request for an activation or migration of a Service, the Customer must obtain the following in writing, and by placing an order or making a request, the Customer warrants that it has obtained in writing:
- (a) consent from the End User for Vocus, NBN Co or the relevant Supplier to access the End User premises to activate, connect or migrate, and to maintain and repair, the Service and any Related Equipment;
  - (b) consent from the End User:
    - (i) to disclose the End User Details to Vocus, NBN Co and the relevant Supplier; and
    - (ii) for Vocus, NBN Co and the relevant Supplier to use the End User Details to the

extent necessary or desirable in connection with the supply of the Service by Vocus and the Related Equipment;

- (c) if the End User is not the owner of the End User premises, consent from the owner of the End User premises for the activation of, or migration to, the Service and the installation of the Related Equipment;
- (d) confirmation from the End User that:
  - (i) there is no person at the premises who:
    - (A) requires Priority Assistance; or
    - (B) is a Priority Customer; or
    - (C) is a Provisional Priority Customer; and
  - (ii) the Service will not be used to acquire Priority Assistance services;
- (e) consent from the End User, or if the End User is not the account holder for all fixed telephone and broadband services at the End User premises, consent from the End User and each account holder:
  - (i) for the Service to be provisioned, including in respect of the activations or migrations of the service and the disconnection of each existing fixed line voice and fixed line broadband service at the premises; and
  - (ii) for fixed line voice services at the End User premises to be provided partly or wholly over the NBN Co Network and Vocus Network (which may include the NBN Co Fibre Network);
- (f) in relation to migrations, an acknowledgement from the End User and all account holders at the End User premises, that the End User and all account holders will experience an outage on all existing fixed line voice and fixed line broadband services while the Service is being provisioned, and that the End User **and each**

**person at the premises will not be able to receive or make any telephone calls (including to the 000 emergency service) over any fixed line voice services at the premises for the duration of the outage;**

- (g) an acknowledgement from the End User that, from the date the Service is provisioned:
  - (i) all fixed line voice and fixed line broadband services at the End User premises will be delivered over the same communications line (which may be an optical fibre communications line);
  - (ii) if the Service is delivered by means of the NBN Co Fibre Network, the copper or aluminium communications line to the End User premises will be taken to be removed, and neither Vocus, NBN Co or the relevant Supplier is under any obligation to reinstall copper or aluminium communications line to the End User premises;
  - (iii) if the Premises is serviced by means of the NBN Co Fibre Network, the new fixed line voice and fixed line broadband at the Premises may be unavailable if there is a failure of the power supply;
  - (iv) if the End User does not have a back-up battery PSU, the back-up battery PSU is not installed, or is installed but flat or faulty, the End User and each other person at the premises will not be able to receive or make any telephone calls (including calls to 000 emergency services) over the fixed line voice service for the duration of the power failure;
  - (v) if a back-up battery PSU is supplied, it is the End User's responsibility to check that the back-up battery PSU is operational and to report actual or suspected faults to the Customer;

- (vi) the activation of, or migration to, a Service may mean that Incompatible Products will not be supplied to the End User;
  - (vii) the installation and operation of a Monitoring Service may cause temporary disruptions to the Service;
  - (viii) the effects listed in clause 4.11(f) will apply equally to an end user that uses the End User's services or other end user that acquires services that are provisioned over the same copper or aluminium communications line; and
  - (ix) the effects listed in clause 4.11(g) will apply equally to an end user that uses the End User's services or other end user that acquires services that are provisioned over the same optical fibre communications line;
- (h) Informed Consent from the End User in accordance with the Guidelines; and
- (i) consent and approval from each End User for a disconnection of their Services to occur in the circumstances specified in clause 4.9(d).
- 4.12. The Customer warrants that if it makes a request, direction or instruction to Vocus in respect of, or on behalf of the End User, the Customer has obtained the prior consent of the End User to make or issue such request, direction or instruction to Vocus.
- 4.13. The Customer is taken to:
- (a) repeat each warranty provided in clause 4.11 at each time that:
    - (i) the Customer requests an activation or migration of in respect of an End User (whether or not previous activations or migrations have been requested in respect of that End User); and
    - (ii) Vocus commences to supply the Service to the Customer in respect of the relevant End User;
  - (b) repeat each warranty provided in clause 4.12 at each time that:
    - (i) the Customer amends or varies the request, direction or instruction;
    - (ii) the Customer withdraws the request, direction or instruction; and
    - (iii) the Customer engages in any correspondence or discussion, or takes any step in furtherance of or in connection with the request, direction or instruction.
- Customer Service Guarantee**
- 4.14. Subject to clause 4.15, before placing an order for an activation of, or migration to, a Service, the Customer must obtain, to the extent permitted by law, a complete waiver from Part 5 of the *Telecommunications (Consumer Protections and Service Standards) Act 1999* (Cth) for all the existing and proposed fixed line voice services at the premises for the duration of the outage caused by the activation of, or migration to, the Service.
- 4.15. The Customer is not required to obtain the waiver referred to in clause 4.14 if:
- (a) all interruptions to fixed telephone services resulting from the activation of, or migration to, the Service will be subject to the exemption under section 19 of the *Telecommunications (Customer Service Guarantee) Standard 2011*; and
  - (b) the Customer has provided reasonable notice of the exemption to the affected persons as required by section 19 *Telecommunications (Customer Service Guarantee) Standard 2011*.
- Service Related Obligations**
- 4.16. The Customer must comply with its obligations set out in the Vocus Documentation. Additionally, the Customer must:
- (a) comply with its interception obligations under the *Telecommunications Act 1997* (Cth), the *Telecommunications (Interception and Access Act) 1979* (Cth) in relation to the Service; and
  - (b) ensure that all services provided to an End User by means of the

Service, and the use by an End User of these services, comply with the requirements set out in the Vocus Documentation.

### Acceptable Use and Fair Use

4.17. The Customer must ensure that its 'Acceptable Use' and 'Fair Use' policies include terms which are materially similar to those contained in the 'Acceptable Use' and 'Fair Use' policies published by Vocus, NBN Co or its relevant Supplier in respect of the Services (or the services from which the Services is derived) from time to time. To avoid doubt, nothing in this clause is intended to require the Customer to include any term in its 'Acceptable Use' and 'Fair Use' policy where:

- (a) to do so will, or is likely to, contravene any applicable laws; or
- (b) the ACMA or the ACCC directs the Customer to not include or rely on such term.

4.18. Without limiting clause 4.17, the Customer must not, and to the extent permitted by law, must ensure that its End Users must not:

- (a) use the Service in a manner which, having regard to the NBN Co Business Rules, Vocus or NBN Co consider to be inappropriate, unreasonable or excessive; or
- (b) do any act, or fail to do any act, which are likely to cause:
  - (i) Vocus to breach the 'Acceptable Use' or 'Fair Use' policy of NBN Co or the relevant Supplier; and
  - (ii) the relevant Supplier (if any) to breach the 'Acceptable Use' or 'Fair Use' policy of NBN Co,

but in each case, only to the extent that policy relates to the Service, or any service from which the Service is derived.

4.19. Notwithstanding clause 4.18, Vocus is not obligated to monitor the use of the Service, or to suspend, limit, disconnect or terminate a Service if there is excessive, unreasonable or unusual usage of the Service.

4.20. The Customer acknowledges, in respect of Network Connect, that the Vocus Documentation may include restrictions, requirements and obligations connected with the acquisition, use or supply of a Network Connect. The Customer must comply with those restrictions and obligations. Without

limiting the matters which may be included in the Vocus Documentation from time to time, the Vocus Documentation may include restrictions, requirements and obligations relating to:

- (a) The Customer having an effective and appropriate system in place to detect and mitigate DDoS (distributed denial of service) attacks ("DDoS Attacks");
- (b) Interconnection with the Vocus Network;
- (c) shaping traffic to the maximum speed prescribed for a given Broadband VLAN; and
- (d) setting Quality of Service (QoS) for a Service that accords with the traffic contract for each Broadband VLAN.

## 5. COMPATIBILITY AND EQUIPMENT

### Supply of Equipment

5.1. If Vocus supplies Related Equipment to the Customer or an End User, unless the supply is by way of sale and the full sale price has been received by Vocus for the Related Equipment, the Customer acknowledges and agrees that (and must ensure that any End User to whom the Related Equipment is supplied acknowledges and agrees that):

- (a) all legal title in the Related Equipment remains with Vocus, NBN Co or the relevant Supplier (as the case may be);
- (b) the Customer or its End User holds the equipment as mere bailee; and
- (c) the Customer and the End User have no right or obligation to purchase the Related Equipment.

5.2. The Customer must indemnify, and keep indemnified, Vocus, NBN Co and its relevant Supplier from and against all losses, expenses, damages and costs (on a solicitor and own client basis) suffered or incurred by or awarded against Vocus, its Related Bodies Corporate, NBN Co and its relevant Supplier arising out of, or in connection with, the loss, theft, damage, destruction, withholding or detainment of the Related Equipment whilst in the possession, custody or control of the Customer or an End User.

### Compatibility

5.3. The Customer must ensure that the network, systems, equipment and facilities of the Customer and its End Users which are used in connection with the Vocus Network, NBN



Co Network or a Supplier Network:

- (a) are capable of orderly and efficient integration and operation with the Vocus Network, NBN Co Network and the relevant Supplier Network;
- (b) comply with the terms of use notified by Vocus, NBN Co or a relevant Supplier from time to time (including the terms published by NBN Co on its website);
- (c) do not cause, and are unlikely to cause, the Customer to contravene clause 5.4;
- (d) are maintained in good working order and repair; and
- (e) comply with all applicable laws and have all necessary regulatory approvals and consents.

**Protecting the Vocus Network, NBN Co Network and Supplier Network**

5.4. The Customer must not (and must ensure that the Customer's Personnel, its End Users and the End User Personnel must not) do any act, or fail to do any act which does, will, or is reasonably likely to, damage, degrade, deteriorate or interfere with the operation or performance of:

- (a) the Vocus Network, NBN Co Network or the Supplier Network (including by failing to have effective and appropriate systems to detect and mitigate DDoS Attacks);
- (b) the services supplied by Vocus, NBN Co or any other person over the both the Vocus Network and NBN Co Network;
- (c) the services supplied by a Supplier or any other person over the Supplier Network;
- (d) the network, system, equipment or facilities of Vocus and NBN Co or any other person who uses the Vocus Network or NBN Co Network; and
- (e) the network, system, equipment or facilities of a Supplier or any other person who uses the Supplier Network.

5.5. The Customer must promptly notify, and must ensure that its relevant End Users promptly notify Vocus, upon becoming aware of any damage to the Vocus Network, NBN Co Network or a Supplier Network.

5.6. The Customer must comply with, and must

ensure that the Customer's Personnel, its End Users and the End User's Personnel comply with any directions, instructions, policies or procedures notified to the Customer from time to time in respect of the Service, the Vocus Network, the NBN Co Network or the Supplier Network. Without limiting the foregoing, the instructions, policies and procedures may relate to:

- (a) the Customer's or an End User's use of the Service;
- (b) protecting the integrity of the Vocus Network, NBN Co Network or a Supplier Network;
- (c) protecting the health and safety of any person; and
- (d) ensuring the quality of any other product or service supplied or capable of being supplied by Vocus, NBN Co or a Supplier.

5.7. The Customer is responsible for the safe operation of its network, systems, equipment and facilities.

**Disconnection from Vocus Network, NBN Co Network and Supplier Network**

5.8. The Customer must immediately, upon becoming aware of a non-compliance with clause 5.3 or clause 5.4, disconnect, remove or deactivate the relevant network, systems, equipment and facilities of the Customer or its End Users from the Vocus Network, NBN Co Network or the Supplier Network (as applicable).

5.9. The Customer agrees that if, in Vocus' opinion, the Customer has, or is likely to, contravene clause 5.3 or clause 5.4, Vocus may direct the Customer to disconnect, remove or deactivate the relevant network, systems, equipment and facilities of the Customer or its End Users from the Vocus Network, NBN Co Network or the Supplier Network, or both (as applicable), and the Customer must immediately comply with that direction. Vocus' right under this clause is in addition to the Customer's obligations under clause 5.6.

**6. DEPENDENCY OF OTHER SERVICES**

6.1. The Customer agrees that termination or suspension of a Service at a Premises will result in the suspension or termination of any fixed line voice service or fixed line broadband service at that Premises provided over the same communications line (which may be an optical fibre line), whether or not those services are supplied by Vocus.

## 7. STANDARD SERVICES

- 7.1. The components, features, methods of delivery, types of and description of the traffic classes in respect of the Service are set out in the Vocus Documentation and the Customer acknowledges and agrees that they may vary from time to time in accordance with this Service Schedule.

## 8. SERVICE LIMITATIONS

### Supply of Accesses

- 8.1. The Service may not include any access or accesses over which a Broadband VLAN is provisioned. If such accesses are not included, the Customer acknowledges that the accesses must be acquired by the Customer separately at the Customer's cost and expense.

### Performance of Service

- 8.2. The Customer agrees that:
- (a) the Service is delivered on a best-efforts basis;
  - (b) the Service does not support or is not suitable for:
    - (i) mission critical purposes;
    - (ii) persons requiring Priority Assistance, a Priority Customer or a Provisional Priority Customer;
    - (iii) any intended purpose or use which is sensitive to latency, jitter, packet-loss or requires high volume continuous file transfer including applications that require highly deterministic traffic parameters such as voice unless the Customer has adequate TC-1 or TC-2 bandwidth;
    - (iv) in circumstances where life-threatening emergencies can occur (for example, it is not suitable for use in police stations, fire stations, emergency service provider call centres, medical practices, hospitals and the like);
    - (v) in circumstances where continuous, reliable and uninterrupted service is required; and

- (vi) any other purpose, service or application that Vocus has not expressly notified the Customer that the Service supports or is suitable for.

- 8.3. For the avoidance of doubt, the Vocus SLA does not apply to the Service.

## 9. TERMINATION

### Right to Terminate

- 9.1. Without limiting any of Vocus' termination rights set out in any other clause of the Agreement, Vocus may terminate this Service Schedule or any or all Services:
- (a) on sixty (60) days' notice to the Customer if a Network Upgrade will result in the Service no longer being supplied; or
  - (b) immediately if Vocus, NBN Co or the relevant Supplier (as the case may be) determines that the communications line (which may be an optical fibre communications line) over which the NBN Broadband and Voice Service Access is delivered will not pass, or no longer passes, Service Qualification; or
  - (c) if Vocus relies on a Supplier Network to supply a Service, on written notice if:
    - (i) ownership, operation or control of the Supplier Network (or any part of it) is acquired by, or in any manner whatsoever transferred to (or is subject to an agreement to acquire or transfer to), NBN Co or a Related Body Corporate of NBN Co; or
    - (ii) if a Relevant Exemption is issued, amended, revoked or ceases to apply in respect of a Supplier Network with the consequence that a Service is no longer covered by a Relevant Exemption,
- provided that in each case, termination may only be in respect of the affected Service.

### Consequences of Termination

- 9.2. Without limiting the obligations and liabilities of the Customer arising upon or surviving termination of this Service Schedule, if this

Service Schedule expires or is terminated, the Customer must (and must ensure that its End Users must):

- (a) disconnect, remove or deactivate each connection made to the Vocus Network, NBN Co Network and a Supplier Network in connection with the supply of the Service;
- (b) comply with any reasonable instruction or direction provided by NBN Co or a Supplier in connection with the disconnection, removal or deactivation of connections made to the Vocus Network, NBN Co Network and the Supplier Network; and
- (c) within two (2) days, return to Vocus all Related Equipment supplied to the Customer or an End User in connection with the supply of the Service other than Related Equipment supplied by way of sale and for which the full sale price has been received by Vocus.

9.3. If the Customer does not comply with its obligations under clauses 9.2(a) or 9.2(b), the Customer agrees that Vocus, NBN Co or the relevant Supplier may disconnect, remove or deactivate each connection made to the Vocus Network, NBN Co Network or the relevant Supplier Network (as the case may be). The Customer releases Vocus from all liability to the Customer, and indemnifies Vocus from and against all losses, expenses, damages and costs (on a solicitor and own client basis) suffered or incurred by or awarded against Vocus, NBN Co and its Suppliers arising out of, or in connection with the disconnection, removal or deactivation of each connection by Vocus, NBN Co or a Supplier.

9.4. To the extent that the indemnity in clause 9.3 is expressed to be in favour of a person who is not a party to this Agreement, Vocus holds the benefit of the indemnity as trustee for each such person.

## 10. CHARGES

10.1. The Charges payable in connection with the Service are initially as set out in the Service Order and are as varied by Vocus from time to time in accordance with this Agreement.

## 11. PROVISION OF INFORMATION

### Customer must provide information

11.1. Without limiting any other right or power of Vocus in the Agreement, from time to time,

Vocus may request, and Customer must promptly provide, any information which:

- (a) Vocus, NBN Co or a relevant Supplier requests or requires in order for Vocus, NBN Co or the relevant Supplier to exercise its rights or powers or perform its obligations (including, in respect of NBN Co under the NBN Co Supply Terms, the NBN Co Business Rules or otherwise existing or available at law); or
- (b) Vocus considers that it is required to confirm that the Customer has obtained Informed Consent in accordance with the Guidelines (including copies of information provided by the Customer to an End User).

11.2. To the extent that the Customer must provide information which includes the End User Details, at the time that the Customer provides the information, the Customer warrants that:

- (a) it has made reasonable inquiries and is satisfied that the information is complete, accurate and current; and
- (b) it has procured consent from the End User:
  - (i) to disclose the End User Details; and
  - (ii) for Vocus, NBN Co and the relevant Supplier to use the End User Details to the extent necessary or desirable in connection with the supply of Services by Vocus.

### Provision of information by Vocus

11.3. Vocus may, from time to time, provide the Customer with information including information that it has received from NBN Co or a relevant Supplier in connection with the supply of a Service. If Vocus provides such information:

- (a) the Customer must promptly provide that information to all of its relevant End Users if:
  - (i) Vocus requests or directs that the information be provided to the End Users; or
  - (ii) the information relates to the access or use of the Vocus Network, NBN Co

Network or a Supplier Network and it is reasonably apparent from the nature and substance of the information that the information is not intended by Vocus to be withheld from the End Users; and

(b) the Customer must ensure that each End User complies with any requirement in the information to the extent that the requirement relates to the End User's:

- (i) use of an Service; and
- (ii) access to or connectivity with the Vocus Network, NBN Co Network or Supplier Network.

## 12. LIMITATION OF LIABILITY AND INDEMNITY

### Release of NBN Co and Suppliers

12.1. Without limiting any other clause of this Agreement and to the extent permitted by law, the Customer releases NBN Co, each Supplier and each of their respective Personnel from all liability to the Customer in respect of any loss (including Consequential Loss) suffered or incurred by the Customer arising out of or in connection with the supply of Services to the Customer.

12.2. To the extent that the release in clause 12.1 is expressed to be in favour of a person who is not a party to this Agreement, Vocus holds the benefit of the release as trustee for each such person.

### Indemnity

12.3. The Customer indemnifies Vocus (and each Related Body Corporate of Vocus) from and against all losses, expenses, damages, liabilities and costs (on a solicitor and own client basis) suffered or incurred by or awarded against Vocus and its Related Bodies Corporate arising out of or in connection with:

- (a) the activation of a Service, including disruption, unavailability or limitation of any fixed line voice service, fixed line broadband service, Monitoring Service or other service supplied to the End User or other end users or persons at the relevant premises;
- (b) a claim or action brought against Vocus by an End User in respect of:

(i) the unavailability, suspension, limitation, disconnection or termination of any fixed line voice service, fixed line broadband service, Monitoring Service or other service caused by the suspension, limitation or termination of this Service Schedule or a Service;

(ii) unavailability, suspension, limitation, disconnection or termination of a Service;

(c) disconnection of, or refusal to supply, an Incompatible Product;

(d) breaches of the *Telecommunications (Customer Service Guarantee) Standard* in respect of an End User or account holder; and

(e) an agreement between Vocus or its Related Body Corporate and:

(i) NBN Co (or a Related Body Corporate of NBN Co); or

(ii) a relevant Supplier (or Related Body Corporate of a relevant Supplier), to the extent that the loss, expense, damage, liability or cost was caused or contributed to by the breach of this Service Schedule by the Customer; and

(f) in respect of Network Connect, any damage to, degradation or deterioration of, or interference with, the:

(i) Vocus Network;

(ii) the services supplied by Vocus over the Vocus Network; and

(iii) the network, system, equipment or facilities of Vocus or any other person who uses the Vocus Network,

to the extent caused or contributed by the Customer, the Customer's Personnel, its End Users and the End User's Personnel.

(g) To the extent that an indemnity in clause 12.3 is expressed to be in favour of a person who is not a party to this Agreement, Vocus holds the benefit of the indemnity as trustee for each such person and the indemnity



is intended to be, and is, enforceable by or on behalf of each such person.

- 12.4. The limitations of liability set out in the Standard Terms and Conditions do not limit the Customer's liability under this Service Schedule including, but not limited to, the Customer's liability pursuant to clauses 5.2, 9.3 and 12.3 of this Service Schedule.

### **13. ACKNOWLEDGEMENTS**

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#### **General Acknowledgements**

- 13.1. Without limiting the acknowledgements provided by the Customer in any other clause of this Agreement, the Customer acknowledges and agrees that:

- (a) the Customer is responsible for managing, and must manage, the relationship between the Customer and its End Users which includes, but is not limited to, providing technical support to the End Users. To the maximum extent permitted by law, Vocus, NBN Co or a relevant Supplier is not required to provide any technical support to any End User; and
- (b) the Customer must ensure that an End User does not contact Vocus, NBN Co or a relevant Supplier in connection with technical support or any other issues in connection with the Service.

#### **Relationship Acknowledgement**

- 13.2. The Customer acknowledges and agrees that:

- (a) Vocus or NBN Co or a relevant Supplier does not supply any products or services directly to the Customer or any End User; and
- (b) Vocus, NBN Co and a relevant Supplier do not have a contractual relationship with the Customer or any End User in respect of the supply of Services.

#### **Notice Acknowledgement**

- 13.3. The Customer acknowledges that Vocus relies on:

- (a) NBN Co; or
  - (b) a Supplier; or
  - (c) both NBN Co and a Supplier,
- to supply the Service to the Customer.

- 13.4. The Customer agrees that:

- (a) to the extent that NBN Co or a Supplier does not provide Vocus with notice which is greater than the corresponding period of notice that Vocus has agreed to provide in this Service Schedule or Agreement, Vocus will be deemed to have provided the Customer with the requisite period of notice if Vocus provides the Customer with reasonable notice, where reasonableness will be assessed with reference to the period of notice provided to Vocus by NBN Co or its relevant Supplier (as the case may be); and

- (b) to the extent that Vocus has agreed to provide the Customer with "reasonable notice" (or words to that effect), reasonableness of the notice provided will be assessed with reference to the period of notice provided to Vocus by NBN Co or its Supplier (as the case may be).

### **14. PRIORITY ASSISTANCE**

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#### **Availability of Priority Assistance**

- 14.1. Priority Assistance is not available in connection with the Service.

### **15. FAULT REPORTING**

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- 15.1. The Customer must report any faults in connection with the Service to Vocus by contacting Vocus during the Support Hours.

- 15.2. Telephone calls made to Vocus outside of the Support Hours may attract additional fees and charges, as set out in a pricing schedule or as notified to the Customer by Vocus from time to time.

- 15.3. Vocus' support desk is available outside of Support Hours for major incidents (5+ incidents) or network outages only. Single service affecting faults will be attended to during Support Hours.

- 15.4. Vocus will endeavour to respond and resolve the fault within a reasonable period of time.

- 15.5. A report of a fault or a suspected fault that Vocus believes is necessary to refer to NBN Co or a relevant Supplier will not be responded to earlier than the following Business Day.

- 15.6. Without limiting any other clause of this Agreement, Vocus will not be liable to the Customer in connection with any fault that is outside of the control of Vocus.

## 16. VARIATIONS

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16.1. Without limiting the right or power of Vocus under any other clause of this Agreement to vary, suspend or terminate this Service Schedule, Vocus may vary this Service Schedule:

(a) if the NBN Co Supply Terms, NBN Co Business Rules or any agreement, arrangement or understanding with a relevant Supplier is varied, terminated or replaced and as a result of that variation, termination or replacement, Vocus considers (on reasonable grounds) that a variation to this Service Schedule is necessary – on written notice to the Customer; and

(b) if the variation relates to a specification in respect of the Service – on no less than twenty (20) days written notice to the Customer;

(c) if the variation relates is limited in its application to Network Connect, where the variation is required for technical or operational reasons connected with the Vocus Network – on at least fourteen (14) days prior written notice of the variation; or

(d) in all other circumstances, where the variation is reasonably required for technical, operational and commercial reasons provided such variation does not have a material adverse effect on the Customer.