

Sip Telecom Broadband Customer Acceptance Use Policy

1. About the Policy

As part of our aim to provide a quality service at a reasonable price to all our users, we have implemented this Policy to ensure that each subscriber's use of the Service:

- meets legal requirements;
- does not unreasonably interfere with other subscribers;
- and does not unreasonably impact on our ability to provide the Service.

In this document, the following words have these meanings:

you means a subscriber to the Service, or any person who accesses the Service using the subscriber's access details;

policy means this document, as may be amended by Sip telecom from time to time on 14 days notice (except that Sip telecom Broadband Internet must give 90 days notice of any change that will introduce any download data limits or other usage restrictions of a similar nature);

Service means a residential ADSL broadband service provided by Sip telecom, together with associated services and software such as email facilities, web space and customer support.

2. When this Policy comes into effect

This Policy applies immediately if you are a new subscriber to the Service. If any changes are made to this policy by Sip telecom Broadband Internet, these changes come into effect 14 days after the revised policy is posted on Sip telecom Broadband Internet's website.

3. Security

3.1 Passwords

You must keep confidential the password you use to subscribe to the Service. You remain responsible for any use of the Service made using your password.

3.2 Unauthorised access

You must not attempt to obtain unauthorised access to any computer system, including unauthorised access to Sip telecom Broadband Internet's system (for example, by attempting to use the account of another user).

3.3 Attacks on third party systems

You must not participate in any attempt to cause any computer system (including Sip telecom Broadband Internet's system) to malfunction, whether by way of viruses, worms, trojan horses, denial of service attacks or otherwise.

4. Illegal and infringing use

You must not use the Service to breach any applicable criminal laws or to infringe on the rights of a third party. This includes, without limitation:

- fraudulent, deceptive or illegal activity;

- infringement of copyright, trademarks or other intellectual property rights;
- infringement of laws relating to censorship and classification of material;
- using the Service to create, forward or distribute defamatory statements.

5. What happens if you breach this Policy

You must not use the Service to breach any applicable criminal laws or to infringe on the rights of a third party. This includes, without limitation:

- suspend your access to the Service indefinitely or for a specific period;
- terminate your access to the Service and refuse to provide the Service to you or your associates in the future;
- inform appropriate government and regulatory authorities of suspected illegal or infringing conduct; and
- delete or edit any of your data (including webpage content) stored on Sip telecom Broadband Internet's computer systems.

This document sets out the terms of an agreement for the provision of ADSL services by Sip Telecom to the customer who places an on-line or telephone order for the Service. This document applies to all ADSL plans purchased on or after 1 April 2004. For terms and conditions applying to ADSL plans purchased before this time, click [here](#).

1. DEFINITIONS

- **Acceptable Use Policy** means the conditions of use applicable to the service as published by Sip Telecom from time to time (click here to view the current version);
- **Access Period** means a renewable period of one calendar month, starting from the Activation Date;
- **Activation Date** means the date that the Service is available for use by you, provided that we have given you advance notice of this date.
- **ADSL Hardware** means hardware, including ADSL modems and line filtering equipment, which you order from Sip Telecom when you place an order for the Service.
- **Charges** means the charges payable by you to Sip Telecom pursuant to this agreement, in accordance with the information given to you at the time you place an order for the Service;
- **Internet** means the worldwide connection of computer networks providing for the transmittal of data by methods including electronic mail, the World Wide Web and other data transmission protocols;
- **Minimum Period** means the minimum period (for example, 12 months) for which you must stay connected to the Service as set out in the description of the plan you purchase. Not all our plans have a Minimum Period.
- **Minimum Period Termination Charge** means the number of months remaining in the Minimum Period as at the date of termination multiplied by the monthly access Charge applicable to your Service.
- **Phone Connection** means a standard telephone service purchased by you in your name from Telstra or a reseller of Telstra and connected to the Telstra public telecommunications network;
- **Service** means permanent ADSL connection access to Sip Telecom's connection to the Internet, the provision of a back-up dial up connection for those times when an ADSL connection is unavailable, the provision of email facilities and space on our World Wide Web server as set out in the description of the plan that you order
- **Unlimited Plan** means access that that does not have a component of Usage Charges.

- **Usage Charges** means that part of the Charges that relate to any or all of the following:
 - (a) the amount of data downloaded by you; and/or
 - (b) the amount of data uploaded by you; and/or
 - (c) the time you spend connected to the service;

as set out in any information given to you at the time you place an order for the Service;
- **Usage Plan** means an access plan that involves a component of Usage Charges;
- **World Wide Web** means a method of representing and obtaining graphical and other data and linking data items used by Internet users.
- **you** means the customer who enters into this agreement (the customer must also be the account-holder of the standard telephone service which is to be connected to the Service).

2. TERM AND ACCESS PERIOD

- 2.1 This Agreement starts on the date when you place an order for the Service using the Sip Telecom on-line sign-up process or the telephone sign-up process.
- 2.2 Sip Telecom will start providing the Service to you from the Activation Date for the duration of the Access Period or, if a Minimum Period applies, for the Minimum Period.
- 2.3 This agreement will automatically be renewed for subsequent periods of one month, starting from the monthly anniversary of the Activation Date, unless:
 - 2.3.1 You give us at least 7 days notice before the end of the current Access Period that you wish to discontinue the service. If you give us less than 7 days notice, we may postpone the date of termination by one calendar month; or
 - 2.3.2 We notify you in advance that we wish to discontinue providing the Service to you. We will only do this if:
 - 2.3.2.1 we consider that you have breached these terms and conditions or the Acceptable Use Policy;
 - 2.3.2.2 you disconnect your Phone Connection (including by changing service providers or moving premises); or
 - 2.3.2.3 we are no longer able to supply the Service to you because our

arrangements with our suppliers have ended and we have been unable to source alternative arrangements.

- 2.4** Sip Telecom may adjust the Charges at the beginning of a new monthly period, provided that Sip Telecom gives you at least 30 days advance notice of any increase.
- 2.5** If a Minimum Period applies and you cancel a Service under clause 2.3.1 or we cancel the Service under clause 2.3.2.1, you must pay the Minimum Period Termination Charge on the date your Service is terminated.
- 2.6** If a Minimum Period applies, the Minimum Period Termination Charge is reduced to \$99 if:
 - 2.6.1** You cancel this agreement because you are moving premises; and
 - 2.6.2** You apply to Sip Telecom to provide ADSL services to you at your new premises for the remainder of the Minimum Period; and
 - 2.6.3** The ADSL connection at your new premises is successfully provisioned.

Sip Telecom may also reduce the Minimum Period Termination Charge at its discretion if Sip Telecom is unable to provision an ADSL connection at your new premises.

3. PROVISION OF SERVICE

- 3.1** Sip Telecom, in accordance with the terms and conditions of this agreement, will provide the customer with the service by such means as Sip Telecom determines.
- 3.2** Sip Telecom will provide the service on a continuous basis during the term of this agreement. Sip Telecom will inform the customer if the service is unavailable for access by the customer due to maintenance or any other foreseeable factor.
- 3.3** Sip Telecom will provide you with all identification and log-in information required for connection to the Service.
- 3.4** If you wish to change the connection speed for the Service, you must request a change at least 14 days before the end of the current Access Period. The change will take effect at the start of the next Access Period. In addition to any changes in monthly fees, Sip Telecom will charge a fee of \$60 to your credit card at the time you request the change. You cannot request a decrease in speed during a

Minimum Period that applies to the plan you purchase.

4. CUSTOMER OBLIGATIONS

- 4.1** You must provide your own access facilities, including the Phone Connection.
- 4.2** You are responsible for maintaining the secrecy and confidentiality of all identification and log-in information required by the customer to access the service.
- 4.3** You agree not to disclose to any other person, corporation, entity or organisation any identification or log-in information, whether in use or not, nor any other confidential information relating to the service or Sip Telecom.
- 4.4** You are liable for all fees resulting from use of the service accessed through your identification or log-in information, whether authorised by you or not.

5. USE OF THE SERVICE

- 5.1** You must comply with all reasonable directions by Sip Telecom regarding the access and use of the Service.
- 5.2** Throughout the Access Period, you must comply with the Acceptable Use Policy.
- 5.3** You warrant that in accessing and using the Service you will only use software that you are legally entitled to use.
- 5.4** You acknowledge that Sip Telecom does not and cannot in any way supervise, edit or control the content and form of any information or data accessed through the Service and Sip Telecom will not be held responsible in any way for any content or information accessed via the Service (except where Sip Telecom actually provides such content or information).
- 5.5** Sip Telecom disclaims all or any liability for any material on the Internet that you may find offensive, upsetting, defamatory or personally offensive.
- 5.6** You must not access, nor permit any other party to access, the Service for any purpose or activity of an illegal or fraudulent nature.
- 5.7** You will not reproduce, distribute, transmit, publish, copy, transfer or commercially exploit any information accessed through or received from the Service that would infringe the intellectual property right of any person.

- 5.8** You are responsible for preparing and maintaining sufficient back-up files and data storage capacity for all your data including electronic messages.
- 5.9** Sip Telecom has no responsibility to provide training in the use of the service pursuant to this agreement.

6. CHARGES

- 6.1** You must pay the charges at the rate and in the manner specified in the plan description for the plan you ordered. Payment for any set-up fee, the provision of the Service in the first Access Period and for any ADSL Hardware you order must be made at the time you order the Service. If we later determine that we are unable to provide the Service to you, we will refund Charges as follows:
 - 6.1.1** Charges for any set-up fee and provision of the Service during the Access Period will be refunded within 10 business days;
 - 6.1.2** Charges for any ADSL Hardware will be refunded to you when we receive the ADSL Hardware from you, provided that such hardware is undamaged, in its original packaging and in saleable condition.
- 6.2** If you are on an Unlimited Plan, Sip Telecom will automatically charge your credit card in advance for access Charges in an Access Period, 3 days before the start of that Access Period. If you are on a Usage Plan, Sip Telecom will automatically charge your credit card in advance for access Charges in an Access Period at the start of that Access Period. At the same time, Sip Telecom will also charge your credit card the Usage Charges (if any) in the previous Access Period. It is your responsibility to ensure that:
 - 6.2.1** you have provided correct credit card details to us; and
 - 6.2.2** there are sufficient funds on your credit card at the time when payments are deducted.
- 6.3** If a credit card transaction is declined for any reason (other than a failure in our or our financial institution's payment processing systems), we will suspend your account at the end of the current Access Period. As well as suspending your account, we may terminate this Agreement if Charges remain outstanding beyond the end of any Access Period for which you have paid. We will make reasonable efforts to contact you to inform you that a credit card transaction has been declined.
- 6.4** Until we terminate this Agreement, we may continue trying to debit your credit card even though a previous attempt was declined. We may also impose a

reasonable processing fee for declined credit card transactions, provided we have given you prior notice of this fee.

- 6.5** If you make payment of a Charge while your access to the Service is suspended, we will enable your access to the Services as soon as possible. We are not liable to refund any Charges for the period of any suspension.
- 6.6** Except as required by relevant legislation, or as set out in this clause, no Charges will be refunded to you.
- 6.7** From time to time, a discounted introductory offer may be advertised for various connection plans. If existing customers are eligible for the introductory offer, a new set-up fee may be payable by customers taking advantage of the offer. In addition, the Minimum Period Termination Charge will apply if an existing customer seeks to disconnect from their current plan to transfer to a new plan.

7. CONTINUOUS SERVICE

Sip Telecom will use reasonable commercial endeavours to provide the Service continuously. However, Sip Telecom makes no guarantees that access will be available at all times and, to the extent permitted by law, will not be liable for any losses whatsoever that may be incurred as a result of the unavailability of the Service. You acknowledge that there may be a reduction in availability during periods of maintenance and enhancement of the Service.

8. EXISTING PHONE CONNECTION

8.1 You agree and acknowledge as follows:

- 8.1.1** The Service can only be provided to you if the cable that runs between your premises and the nearest exchange is owned by Telstra. This means that you must purchase a standard telephone service from Telstra or a reseller of Telstra in order to receive the Service.
- 8.1.2** If you do not currently purchase your standard phone service from Telstra or a Telstra reseller, then Sip Telecom is unable to provide the Service to you at this time.
- 8.1.3** If, after you start receiving the Service, your standard phone service becomes disconnected, you move premises, or you transfer your phone services to someone other than Telstra or a Telstra reseller, this may mean that you will be unable to receive the Service. Sip Telecom is not obliged to refund any of the fees you have paid in these circumstances.

8.1.4 If you move premises, this will be treated by Sip Telecom as a disconnection. You may then apply for a new connection at your new premises.

8.2 Some services offered by your telecommunications service provider or another person may not be compatible with the Service. This includes, for example, Telstra's "Easycall Multiple Number" and "Faxstream Duet" services.

8.3 Some services offered by your telecommunications service provider or another person may not be compatible with the Service. This includes, for example, Telstra's "Easycall Multiple Number" and "Faxstream Duet" services.

8.4 You must inform any provider of monitoring services that installation of the ADSL service may cause temporary interruption of monitoring services and that installation of additional equipment may be required.

9. INDEMNITY

You release and indemnify Sip Telecom, its servants and agents against all actions, claims and demands which may be instituted against Sip Telecom arising out of a breach of this agreement by you or arising out of an act or omission by any other person (such as an employee) for whose acts or omissions you are vicariously liable.

10. IMPLIED TERMS

10.1 Subject to clause 9, any condition or warranty which would otherwise be implied in this agreement is hereby excluded.

10.2 Where legislation (such as the Trade Practice Act 1974 and state fair trading legislation) implies in this agreement any condition or warranty, and that legislation avoids or prohibits provisions in a contract excluding or modifying the application of or exercise of or liability under such condition or warranty, the condition or warranty will be deemed to be included in this agreement. However, to the extent permitted by such legislation, the liability of Sip Telecom for any breach of such condition or warranty shall be limited, at the option of Sip Telecom, to one or more of the following:

10.2.1 if the breach relates to goods:

- the replacement of the goods or the supply of equivalent goods;
- the repair of such goods;
- the payment of the cost of replacing the goods or of acquiring equivalent goods; or
- the payment of the cost of having the goods repaired; and

10.2.2 if the breach relates to services:

- the supplying of the services again; or
- the payment of the cost of having the services supplied again.

11. LIABILITY OF SIP TELECOM

Except in relation to liability for personal injury (including sickness and death), to the extent permitted by law the aggregate liability of Sip Telecom to the customer in connection with this agreement (whether in contract, tort including negligence, under statute or otherwise) in respect of any loss or damage (including consequential loss or damage) is limited to the Charges received by Sip Telecom in the Access Period during which the liability arises.

12. TERMINATION

12.1 In addition to the rights of the parties not to renew this agreement in accordance with clause 2.3, Sip Telecom may terminate this agreement immediately if:

12.1.1 you breach any of your obligations and the breach continues for more than 5 days after we have given you notice of the breach;

12.1.2 (if you are an individual) you become bankrupt or insolvent;

12.1.3 (if you are a company) you become insolvent, or an administrator, receiver or liquidator is appointed;

13. EVENTS BEYOND SIP TELECOM'S CONTROL

13.1 To the extent permitted by law, Sip Telecom will not be liable for any defect in the provision of the Service which is caused by a reason beyond the reasonable control of Sip Telecom. In particular (but without limitation) you acknowledge that :

13.1.1 continuity and connection speed of your Internet access depends on a wide range of factors, many of which are beyond the control of Sip Telecom;

13.1.2 Sip Telecom has no control over the accuracy or appropriateness of any information on the Internet;

13.1.3 Sip Telecom is not responsible for any software available on the Internet;

13.1.4 Your Internet access may be interrupted or slowed by a variety of factors,

including, but not limited to, equipment failure, the need for routine maintenance, and peak demand.

- 13.1.5** Connection speeds at the maximum theoretical speed of your equipment and the Service plan you purchase may not be achievable in practice.

14. IP ADDRESSES

Any IP Address allotted to you by Sip Telecom, whether as a static address or dynamically allocated:

- 14.1** remains the sole property of Sip Telecom;
- 14.2** may be changed or revoked by Sip Telecom at its discretion at any time; and
- 14.3** is not transferable.

15. IP ADDRESSES

- 15.1** Pursuant to Australian state and federal consumer protection legislation, you may have additional rights beyond those set out in these Terms and Conditions. Also, such legislation may imply additional terms or warranties in these Terms and Conditions which cannot be varied. Nothing in these Terms and Conditions is intended to be inconsistent with, or vary, such rights, terms or warranties.

16. NOTICES

- 16.1** Sip Telecom relies on email as its primary means of communication. Sip Telecom will send notices to you by email as follows:
- 16.1.1** If you are a current customer of Sip Telecom and your account is not suspended, the email will be sent to your primary Sip Telecom user address;
 - 16.1.2** If you are not a current customer of Sip Telecom but you provide Sip Telecom with an email address, Sip Telecom will send notices to that address;
 - 16.1.3** If you do not have an email address (or your Sip Telecom address is suspended), Sip Telecom will make reasonable efforts to contact you by phone or mail.
- 16.2** If Sip Telecom sends a notice to you by email, it is deemed to be received by you

at the time that the communication leaves Sip Telecom's email servers or arrives in your Sip Telecom mail box, unless Sip Telecom receives an automatic notification of non-delivery within 24 hours.

16.3 You may send notices to Sip Telecom:

16.3.1 By email to customerservice@Sip Telecom.com.au

16.3.2 By mail to PO Box 1016, Paramatta, NSW 2124

16.3.3 By fax to 02 9893 9966

16.3.4 For some types of notices (such as changes in credit card details and contact details), Sip Telecom may make on-line forms available to you from your Account Management web page.

17. LAW

The laws of New South Wales , Australia govern this Agreement and the parties submit to the non-exclusive jurisdiction of the laws of that state.

18. CHANGES TO THIS AGREEMENT

Sip Telecom may change these terms and conditions or the Acceptable Use Policy at any time by giving you 30 days notice. If the change adversely affects your rights or obligations under this agreement, you may cancel this agreement by notice to Sip Telecom without penalty (including without paying any Minimum Period Termination Charge that would otherwise apply).