



STANDARD FORM OF AGREEMENT

ACTIV8ME SATELLITE BROADBAND (NBN INTERIM SATELLITE SERVICE)

Australian Private Networks Pty Ltd trading as Activ8me ABN 27 103 009 552

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Part A Agreement Overview

1 Agreement Overview

1.1 Overview

The following documents make up your agreement with us (**Agreement**):

- (a) Part A . Agreement Overview (this document) (**Agreement Overview**)
- (b) Part B . Application Form . Activ8me Satellite Service (**Application Form**)
- (c) Part C . Terms and Conditions (**Terms and Conditions**)
- (d) Part D . Service Description (**Service Description**)
- (e) Part E . Dictionary (**Dictionary**)

1.2 Dictionary and interpretation

Part E . Dictionary contains definitions and rules for interpretation for the Agreement in addition to definitions appearing in other Parts of the Agreement.



Part C Terms and conditions

1 Supply

1.1 Supply

This Agreement (including these terms) sets out the terms and conditions on which we will supply the Service to you.

1.2 Nature of Service

The Service will be available to a limited number of end users. You must satisfy the Eligibility Criteria to acquire the Service.

1.3 Variations to the Service

Due to the nature of the Service, you acknowledge that the Service may be unavailable for periods of time and may be varied for technical or operational reasons without notice to you. We will use reasonable endeavours to provide you with appropriate notice where possible.

1.4 Limitations

The Service is supplied on the basis of limitations (including limitations as to quality and use) as set out in the Service Description. We do not guarantee that the Service will be continuous or fault free due to the nature of the Network and our reliance on third party suppliers.

1.5 No warranty

We do not warrant that it will be able to supply the Service or any equipment associated with the Service.

1.6 Resupply

We resupply the Service to you using the Satellite Network and networks and systems supplied by other Wholesale Service Providers. However, we do not represent or act on behalf of NBN or those Service Providers. You must contact us if you have any queries or issues with respect to the supply of the Service.

1.7 Change of supplier

We may or our Wholesale Service Providers may change the supplier of the Satellite Network used to supply the Service. If this occurs, then the equipment on your premises may need reconfiguration to enable your equipment to pick up the new Satellite Network. You agree to allow us and/or our Wholesale Service Providers to access your site or premises for the purpose of making these changes.

2 Term

2.1 Term

Subject to this Agreement, we will supply the Service to you from the Connection Date for the period specified in the Application Form (**Term**). Unless terminated by either party on 10 Business Days notice after the end of this period, we will continue to provide the Service to you after the expiration of the initial Term. If you request to cancel your Service your access will be terminated immediately and you will be required to pay the full month's access fee for your current billing month and any other applicable usage charges.

3 Your use of the Service

3.1 Use

You must only use the Service for your own personal use or business use in accordance with this Agreement. You must not use or rely on the Service for priority assistance, mission critical applications or business use outside the parameters of the Eligibility Criteria.

3.2 No resale or wholesale

You must not wholesale, resell, distribute or reproduce all or any part of the Service.

3.3 Responsibility for third parties

You are responsible for and must ensure that any person you allow to use the Service complies with this Agreement as if they were you.

3.4 Prohibited activity

You must:

- (a) not use or access the Service in an unlawful manner or for any activity of an illegal or fraudulent nature;
- (b) not expose Activ8me or its Service Providers to any liability;
- (c) not use the Service to transmit, publish or communicate material which is defamatory, offensive, abusive, indecent, menacing, unwanted or which constitutes spam;
- (d) not use the Service to transmit, publish or communicate material which breaches the Intellectual Property Rights of any third party or which infringes any duty or obligation in contract, tort or otherwise;
- (e) not misuse the Service;
- (f) not use the Service for purposes that are not in connection with the intended application the Service or would unreasonably degrade the Service, the Network or other users' experience of the Service;
- (g) not use the Service in a manner prohibited by the Service Description;
- (h) not use the Service in any way which damages, interferes with or threatens the Network, systems, equipment or facilities of Activ8me or its Service Providers;
- (i) comply with all reasonable directions by Activ8me with respect to access and use of the Service;

3.5 No security interest

You must not create, or cause to be created, any security interest (including any liens, encumbrances, charges or mortgages) over any part of the Service including any Network used to supply the Service.

4 Your obligations

4.1 Fair use

You agree to use the Service in accordance with our Acceptable Use Policy which is amended from time to time and is available on our website.

4.2 Eligibility Criteria

You warrant that you satisfy the Eligibility Criteria at commencement of supply of the Service.

4.3 Provide assistance

You agree to provide any information and reasonable assistance to Activ8me or its Service Providers to enable the Service to be provided to you. You must provide true and complete answers to any reasonable installation questions which may affect or prevent successful installation, commissioning or testing of any equipment provided as part of the Service.

4.4 Assist with investigations

You must provide any information and reasonable assistance to Activ8me or its Service Providers to enable investigations into activities of an illegal nature, including potential incidences of fraud;

4.5 Disparaging comments

You must not engage in conduct which, in our opinion, could be reasonably expected to adversely affect our reputation or result in a liability to us or NBN to any third party.

4.6 Your acknowledgment

You acknowledge that:

- (a) Activ8me or its suppliers may be required by law to intercept communications over the Service and may also monitor your usage of the Service and communications sent over the Network;
- (b) Activ8me may disconnect or procure the disconnection of any connections made by you or on your behalf to any Service Provider's Network, systems, equipment, property or facilities in connection with Activ8me's supply of the Services, within a specified timeframe;
- (c) we do not exercise any control over, authorise or make any warranty regarding access of any content used when using the Service;
- (d) we will not be liable for any third party charges which may be incurred by accessing content, services, sites or software of third parties.

5 Changing to your Service

5.1 Request

Subject to clause 5.2, you may request a change (including a transfer, upgrade or downgrade) to your Service. We will use reasonable endeavours to make the change provided that the change is feasible and can be achieved technically. You are entitled to 1 change of plan per month at no cost. If you change your plan, then the changes will come into effect in your next billing cycle. Other fees for varying your service will be set out in the Application Form or will be notified to you.

5.2 Churn

Unless otherwise agreed, you will not be permitted to transfer, upgrade or downgrade the Service at any time up to 31 October 2011 or such longer period as determined by NBN.

6 Support and fault reporting

6.1 Contact

You may request support or report a fault by telephone, email or by writing as set out in the Application Form, or notified to you on our website from time to time.

6.2 Faults

You must provide all reasonable assistance to enable us, or where necessary one of our suppliers, to investigate and repair a fault. We are not responsible for repairing any fault in the Service where the fault arises in or is caused by a Service Provider's Network, or equipment that is owned by you or is not provided by us for your use.

7 Access to premises

7.1 Acknowledgment

You acknowledge that for us to supply the Service we may be required to attend and access the site or premises at which the Service will be or is supplied.

7.2 Access

You must provide us and our Service Providers with safe and timely access to any site or premises to enable us and our Service Providers to enter and do anything necessary in respect of that site or premises to:

- (a) supply the Service;
- (b) deliver, install, connect, inspect, reposition, modify, replace, maintain, repair, service, disconnect and remove any equipment used for in or in connection with the Service (including any equipment or other items owned or controlled by a Service Provider); and
- (c) exercise any of our rights or perform any of our obligations.

7.3 Further assurances

You agree to provide such other consents in such form required by us to enable us or a Service Provider to access a site or premises for the purposes set out in clause 7.2

7.4 Consent

To the extent that any site or premises is not owned, controlled or occupied by you, you must notify us of this fact and provide valid consents from the rightful owner, controller or occupier of the site or premises in such form as required by us.

8 Equipment and software

8.1 Equipment

We will provide you with equipment (including a network termination device) for use in conjunction with the Service. You will be required to keep this equipment on your premises. Upon request by us, you must provide to us the location of any equipment provided to you.

8.2 Ownership

Any equipment supplied by us or our Services Providers will remain the property of our Wholesale Service Providers (as the case may be) unless paid for in full.

8.3 Maintenance

If you require maintenance or servicing of equipment provided by us or our Service Providers then you must let us know.

8.4 No marking equipment

You must not interfere with, alter or deface any labelling, identification or trademark affixed to any equipment provided by us or our Service Providers.

8.5 Return of equipment

If in our reasonable opinion any equipment is not returned to us in the same condition as when it was supplied (fair wear and tear excepted), then you will be liable for the costs associated with the repair or replacement of that equipment. You must permit us or our Service Providers to access any site or premises to collect any equipment owned by us or our Service Provider in accordance with clause 7.

8.6 Obligations in relation to equipment

You must keep any equipment used in conjunction with the Service, including any equipment provided by us or our Service Providers, safe and in a suitable environment and must use the equipment in accordance with the directions of use (fair wear and tear excepted). You must ensure that all equipment used by you in relation to the Service and the manner in which you use that equipment complies with all laws and any directions reasonably given by us.

8.7 Equipment not supplied by us

We are not liable for the operation or compatibility of any equipment relating to the Service that is not supplied by us.

8.8 Security interest

You must not mortgage or grant a charge, lien or encumbrance over any equipment owned by us or our Service Providers.

8.9 Software

You must comply with the terms of any licence for any software provided to you in relation to the Service (including any software provided any third party to enable us to provide the

Service to you). You must not, disassemble, decompile or reverse engineer any software provided by us or our Services Providers.

9 Billing

9.1 Commencement

We will charge you for your use of the Service on and from the Connection Date in accordance with the plan you have chosen.

9.2 Charges

Details of your fees and charges are set out in the Application Form and fees and charges for other services are set out in the Price List or as advised by us.

9.3 Monthly invoices

You will be invoiced monthly in arrears for your usage of the Service during each monthly billing cycle and any other usage incurred (if applicable). We will use reasonable endeavours to:

- (a) process and deliver invoices within 10 business days of the closure of the billing period;
- (b) incorporate all charges incurred by you within the current billing period. Where charges appear on your invoices that relate to a previous billing period this will be clearly set out; and
- (c) pass on third party supplier charges as soon as practicable.

9.4 When fees payable

You must pay the fees even if:

- (a) the Service is unavailable or the Network is unavailable; or
- (b) you are unable to use the Service for any reason,

provided that if the Service is suspended or unavailable for use for a substantial period, we may provide a discount or credit for the period in which the Service was suspended or unavailable for use.

9.5 Payment terms

You will be required to pay your invoices for your elected plan for the Service by direct debit or by credit card on the due dates. If you cannot pay by direct debit or credit card, you must pay all fees and charges set out in any invoice within 7 days of the date of the invoice.

9.6 Prepayment

In certain circumstances, we may request you to pay in advance the estimated cost of using your Service up to 12 months in advance or any other time frame as determined by us. We will only ask you to do this if you elect not to pay by direct debit, you have no credit record or if we have reason to believe that you have failed to pay outstanding charges on a previous account.

9.7 Paper based invoices

A tax invoice for all payments direct debited by us from your bank account or credit card is available to you on our website under [My Account](#) which can be accessed with your user name and password. If you request to receive your invoice by pre-paid post, we may charge you an additional administration charge.

9.8 Late payment

- (a) If you do not pay an invoice by its due date we may charge you an administrative late fee of \$15.00 that will appear on your next monthly invoice.
- (b) You indemnify us against all Losses incurred by us including all legal costs and other expenses incurred by us in connection with a demand, action, or other proceeding taken for recovery of any debt owing from you to us.

9.9 Dishonoured payments

If you pay a bill by direct debit or direct credit and there are insufficient funds, you must pay us a dishonour fee of \$15.00. If you have elected to pay by direct debit or credit card, these amounts will be automatically directly debited from your bank account or charged to your credit card.

9.10 Indemnity for late payment

You indemnify us against all Losses incurred by us including all legal costs and other expenses incurred by us in connection with a demand, action, or other proceeding taken for recovery of any debt owing from you to us.

9.11 Early termination payments

If your Service is suspended or cancelled under this clause, you will need to pay any applicable early termination fees in respect of your Service set out in the Application Form. If your Service is terminated within the minimum commitment period from the Start Date nominated by you in the Application Form, then you will be liable to pay us an administrative fee of \$125.00.

10 Privacy and Personal Information

10.1 Warranty

You warrant that all information you have and will provide to us will comply with any Privacy Laws.

10.2 Purpose of collecting Personal Information

We will keep and use your Personal Information in accordance with our privacy policy available on our website. Activ8me, its agents and Wholesale Service Providers may collect, use and disclose your Personal Information to third parties for the purpose of:

- (a) supplying the Service;
- (b) keeping you informed about upgrades, maintenance, and features of our services or the services of our Wholesale Service Provider;
- (c) conducting research in order to provide a better service to you;
- (d) enabling our Wholesale Service Providers (and in particular NBN) to seek feedback about the nature of the Service;
- (e) referring any debts owed by you to a debt collection agency; and
- (f) promotional and marketing purposes.

10.3 Disclosure

Without limiting clause 10.2, we may receive and disclose Personal Information about you and information relating to your Service to or from:

- (a) credit providers or credit reporting agencies for purposes permitted under the Privacy Laws (including obtaining a consumer credit report about your creditworthiness, credit history, credit standing and credit capacity);
- (b) law enforcement agencies to assist them in the prevention of criminal activity;
- (c) any company within the Activ8me group for purposes that are related to providing you with a service which would be reasonably expected; and
- (d) to NBN.

11 Complaints and disputes

11.1 Complaints procedure

If you have a complaint in relation to the Service, you may complain by telephone to us or in writing to us in accordance with our complaints procedure as amended from time to time. A copy of our Complaints Procedure is available on our website at <http://www.activ8me.net.au/default.asp?contentID=597>, or upon request by you.

11.2 Billing enquiry

If you have an enquiry about your charges or any invoice we send to you, you may contact us by telephone or email in the first instance (**%Billing Query+**). You must provide details of your bill and the charges the subject of the enquiry to us.

11.3 Telecommunications Industry Ombudsman

If you are not satisfied with our complaints handling procedure, you may contact the Telecommunications Industry Ombudsman (TIO) as a last resort. The TIO is an independent body and is provided as a free service. The TIO will only proceed with your complaint if you have first tried to resolve it with us

12 Financial undertaking

12.1 Financial security

We may from time to time, upon reasonable notice to you seek and you shall provide for the purposes of assessing your creditworthiness or as security against non-payment any financial information and security in such form as required by us (such as guarantee, charge, deposit, debtors insurance, personal guarantees, or related body guarantees).

13 Insurance

13.1 Limitations on policies

You must not take out any insurance policies for Consequential Loss or business interruption arising in connection with claims, Loss, failure or non-performance of the Products without first obtaining Activ8me's consent (who will seek the consent of NBN).

14 Variations

14.1 When variation may be made

Activ8me may vary this Agreement (including varying the service charges and adding new types of charges) without notice if the change will have no more than a minor detriment to you or you agree to the variation.

14.2 Changes requiring notice

If we change this agreement (including varying any service charges or add new types of charges) and the change could be reasonably expected to have a detrimental impact on you, we will give you at least 42 days notice (**%Notice Period+**). You may terminate the Agreement if the proposed changes are likely to have a detrimental impact on you at any time during the Notice Period.

14.3 Effect

Variations will become effective on the date specified in the notice. A notice of variation may be published on our website.

15 Termination, cancellation and suspension of Service

15.1 Suspension, cancellation or termination

We may (whether on our own or at the request of a Wholesale Service Provider) immediately suspend or cancel the Service or immediately terminate this Agreement without liability to you and without notice if you breach the terms of this Agreement or where:

- (a) a Wholesale Service Provider ceases to supply all or part of the Service to us (or our agreement with NBN terminates);
- (b) we are required by law to do so;
- (c) you provide false or incomplete information about you relating to the Service;
- (d) you are unable to pay your debts as and when they fall due;
- (e) you, being a company, appoint or take steps to appoint on or more of a receiver, manager, liquidator or administrator;

- (f) we are unable to provide the Service to you in accordance with the Service Description.
- (g) you do not pay your invoice by the relevant due date and we provide you with 7 days notice to pay

15.2 Rights on termination

On termination of this Agreement for any reason:

- (a) all monies owing to us (including any early termination fees under clause 9.11) become due and payable;
- (b) you must immediately stop and procure that any third party stops using the Service; and
- (c) you must immediately return to us at your expense and risk all equipment supplied by us or our Wholesale Service Providers, or enable us to collect it from your site or premises.

16 Liability of Wholesale Service Providers

16.1 Undertakings given by us to Wholesale Service Providers

- (a) Activ8me has undertaken to NBN that Activ8me will not make any Claim against NBN (including their Related Bodies Corporate and their personnel) or any third party suppliers arising from or in connection with any failure by that third party to supply such facilities or services to NBN under a contract between NBN and such a third party.
- (b) Activ8me has undertaken to NBN that Activ8me will not make any Claim (and will waive any Claim) against supplier to the NBN (and their personnel).

16.2 Release of Wholesale Service Providers

You acknowledge and agree to release discharge and waive any Claims against any Wholesale Service Provider (including NBN) and their personnel.

16.3 Limitations on remedies

You acknowledge that you due to the nature and limitations of the Service under this Agreement, you including will not have any recourse to Activ8me's Wholesale Service Providers in relation to any Claim, including for the purposes of the Australian Consumer Law as set out in Schedule 2 to the Competition and Consumer Act 2010 (Cth).

16.4 Exclusion of liability of Wholesale Service Providers

- (a) Subject to clause 18, you acknowledge that our Wholesale Service Providers (including NBN, all Related Bodies Corporate of NBN) and all of each of their personnel are not liable to you (to the maximum extent of the law) arising from or the provision of the Service and any equipment provided to you.
- (b) Activ8me holds the exclusions set out in this clause on trust for the benefit of NBN, its Related Bodies Corporate, its Wholesale Service Providers and all of each of their respective personnel, and those persons may rely on the benefit of this clause in any Claim you may have against them.

17 Exclusion of liability

17.1 Exclusion

Unless expressly stated otherwise in this Agreement, and to the extent permitted by law, our liability in respect of any and all Claims and Losses arising in connection with the supply of the Service or this Agreement is excluded.

17.2 Law

Nothing in this Agreement limits the application of any laws (including any condition, guarantee, warranty, rights or remedies) which are implied or imposed by legislation, regulation, common law which cannot be lawfully excluded.

17.3 Sole remedy

Where a condition, warranty or guarantee is implied or imposed by law and a party cannot exclude that condition, warranty or guarantee, then to the extent permitted by law, our liability for failing to comply with the condition is limited to one or more of the following:

- (a) in the case of goods to the replacement of the goods or the supply of equivalent goods; the repair of the 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
- (b) in the case of services (including the supply of the Services) to the supply of the services again; or the payment of the cost of having the services supplied again.

17.4 Service level targets

We will not be under any liability under or breach of this Agreement if we do not meet any service level targets (if any).

17.5 Death and personal injury

Each party indemnifies the other party for all Loss to the other party arising from the death or personal injury to the other party's personnel to the extent it is caused directly by the negligence of the first party in connection with this Agreement.

17.6 Consequential loss

To the extent permitted by law, we are not liable for any Consequential Loss even if the possibility of such a Loss being suffered has been brought to the attention of Activ8me.

17.7 Exclusion

A party's liability to the other party in respect of any and all Claims and Losses under, arising in connection with this Agreement is reduced proportionally to the extent that:

- (a) the other party has not taken all reasonable steps to minimise and mitigate its own Loss; or
- (b) the party's Loss is caused, or contributed to, by the other party.

18 Release and indemnity

18.1 General Indemnity

To the maximum extent permitted by law, you release Activ8me and its personnel from, and must indemnify and hold harmless Activ8me and personnel (those indemnified) from and against, any Loss or Claim (including reasonable legal costs and expenses) brought against, incurred or suffered by Activ8me or liability reasonably incurred or suffered by any of those indemnified arising from any proceedings against those indemnified and arising directly or indirectly in connection with the provision of the Service by Activ8me including:

- (a) where such loss or liability was caused by a breach of your obligations under this Agreement;
- (b) where such loss or liability was caused by any wilful, unlawful or negligent act or omission by you; or
- (c) any claims brought by you or any third person for loss suffered as a result of a defect in the Service.

19 GST

19.1 GST payable

All charges in connection with this Agreement are, unless otherwise specified, exclusive of GST. If GST is payable on a supply, then, then the amount due for that supply will be increased by the amount of GST payable in respect of that supply.

20 Assignment

20.1 Assignment by us

Activ8me shall have the right to assign or novate all or part of its rights and obligations under this Agreement to any of its suppliers or any other party without any further consent required by you.

20.2 No assignment by you

Your rights under this Agreement are personal. You must not assign or novate all or part of your rights and obligations under this Agreement.

21 General conditions

21.1 Severance

This Agreement is to be interpreted so that it complies with all applicable laws. If any provision of this Agreement is held to be illegal, invalid or unenforceable, that provision must be read down to the extent necessary to ensure that it is not illegal, invalid or unenforceable. If that clause cannot be read down, then that provision shall be severed without affecting the validity or enforceability of the remaining part of that provision or the other provisions in this Agreement.

21.2 Further assurances

The parties will promptly execute all documents and do all things that the other party from time to time reasonably requires of it to effect, perfect or complete the terms and conditions of this Agreement.

21.3 Non-merger of provisions

A provision of this Agreement which can and is intended to operate after its conclusion will remain in full force and effect.

21.4 Waiver

A single or partial exercise or waiver of a right relating to this Agreement will not prevent any other exercise of that right or the exercise of any other right.

21.5 Jurisdiction

This agreement is governed by and construed in accordance with all applicable laws in force in Victoria from time to time, and the parties submit to the non-exclusive jurisdiction of the courts of Victoria.

21.6 Statements by Activ8me

A statement by Activ8me on any matter relating to this Agreement (including any amount owing by you) is conclusive unless clearly wrong on its face.

21.7 Agency

You appoint Activ8me as your agent for the purposes of completing any customer authorisation form on your behalf.

21.8 Survival

Each persons accrued rights and obligations are not affected and the parts of this Agreement which are by their nature intended to survive termination of this Agreement will do so.

21.9 Continuing indemnities

Each indemnity contained in this Agreement is an independent and continuing obligation and survives termination of this Agreement, despite a settlement of account or any other matter.

21.10 Supply by other parties

We may provide all or any part of the Service to you through the use of any of our Related Bodies Corporate and/or our agents or subcontractors without obtaining your prior written consent.



Part D Service Description

1 Description

1.1 The Service

The Service is known as the First Release Satellite Service and is the first release satellite service which is an internet connection that is hosted by the NBN or a supplier to the NBN .

The service is a Layer 3 IP version 4 connection which carries internet traffic over the Satellite Network, and provides internet connectivity from your network boundary points being the user network interface (**UNI**) on a modem which forms part of the network termination device (**NTD**) located at your premises.

The speed of the internet service (Download/Upload) is 6 Mbps/1 Mbps.

Note: Speed Mbps is peak information rate in Megabits per second at Traffic Class 4. Traffic Class 4 is specified as best efforts subject to NBN's network loading rules and with availability/connectivity greater than 95%

1.2 Equipment

The following equipment is needed to provide the Service:

- (a) a user network interface (UNI) on a modem which forms part of the network termination device (NTD) located at your premises.
The NTD comprises:
 - (i) a satellite antenna installed at your premises (typically 1.2 metres in diameter),
 - (ii) electronic equipment mounted on the satellite antenna, known as the Out Door Unit (ODU),
 - (iii) electronic equipment mounted internally within your premises, known as the modem,
 - (iv) connectivity between the ODU and the modem,
 - (v) a UNI, being the physical data port on the modem. (Note: the NTD does not include a cable to connect your computer to the UNI).

1.3 Prohibitions

You must not use the Service to:

- (a) continuously download traffic at a rate greater than 30kbps and/or uploading traffic at a rate greater than 10 kbps;
- (b) download more than 9 gigabytes in any hour during a peak period at one premises;
- (c) otherwise use the Service for an application that, in NBN's reasonable opinion the Service was not to be used for; or
- (d) for an application that, in NBN's reasonable opinion, unreasonably degrade the Service, the Satellite Network, or the user experience of other customers subscribed to the Service.

1.4 Usage

We will provide you with access to your daily usage online to enable you to monitor your usage relative to your plan.



Part E Dictionary

1 Dictionary

1.1 Definitions

The following definitions apply to the Agreement in addition to words defined elsewhere:

Activ8me means Australian Private Networks Pty Ltd (ACN 103 009 552) and its Related Bodies Corporate and any successor in title.

Agreement has the meaning set out in Part A . Agreement Overview.

Claim means a claim, action, proceeding or demand made against the person concerned, however it arises and whether it is present or future, fixed or unascertained, actual or contingent.

Connection Date means the date that the Service is installed and connected.

Consequential Loss means any special, indirect, incidental, consequential or economic loss (including loss of profits, revenue, savings, opportunity or goodwill), even if the possibility of such a loss being suffered has been brought to the attention of the relevant party.

Corporations Act means the Corporations Act 2001 (Cth).

Eligibility Criteria means the eligibility criteria provided by us or NBN which includes criteria on your geographical location and the type of end user you are.

GST means has the same meaning as set out in A New Tax System (Goods and Services Tax) Act 1999 (Cth).

Intellectual Property Rights means any patent, copyright, design, trade name, trade mark, service mark or other intellectual property right (whether registered or not) including ideas, concepts, know-how, techniques, designs, specifications, drawings, blueprints, tracings, diagrams and models.

Loss means a damage, loss, cost, expense or liability incurred by the person concerned, however it arises and whether it is present or future, fixed or unascertained, actual or contingent, and includes Consequential Loss.

NBN means NBN Co Limited (ABN 86 136 533 741).

NBN Equipment means any equipment that is owned, operated or controlled by NBN, any Related Body Corporate of NBN or any supplier to NBN, and which is used in connection with the supply of the Services, including the NTD ϕ .

Network means any telecommunications network, systems, equipment, facilities or cabling controlled by Activ8me, or Wholesale Service Providers (including the NBN), including the Satellite Network.

Personal Information has the meaning set out in Privacy Laws.

Price List means the list(s) of prices compiled by us which contains details of the fees and charges payable for products and services in connection with this Agreement (as amended from time to time).

Privacy Laws means *Privacy Act 1988* (Cth), the Telecommunications Act and the *Spam Act 2003* (Cth), each as amended or replaced from time to time.

Related Body Corporate has the meaning as that term is defined in the Corporations Act.

Satellite Network means:

- (a) the satellite telecommunications network that is owned or controlled by, or operated on behalf of, NBN, a Related Body Corporate of NBN or a Wholesale Service Provider to the NBN, and which is used in connection with the supply of the Service; and
- (b) the NBN Equipment.

Service means the service set out in Part D . Service Description for Satellite Services.

We or us or our means Australian Private Networks Pty Ltd (ACN 103 009 552) and its Related Bodies Corporate and any successor in title.

Wholesale Service Provider means any third party supplier from whom we acquire services which are used to provide the Service (including NBN and any third party supplier from whom NBN acquires services).

You or you means the customer who fills out the application for the Service (and your and yours is to be construed accordingly).

2 Interpretation

2.1 Rules

The following rules also apply in interpreting this Agreement, except where the context makes it clear that a rule is not intended to apply.

- (a) A reference to legislation (including subordinate legislation) is to that legislation as amended, re enacted or replaced, and includes any subordinate legislation issued under it;
- (b) A reference to a document or agreement, or a provision of a document or agreement, is to that document, agreement or provision as amended, supplemented, replaced or novated;
- (c) A reference to a party to this Agreement or to any other document or agreement includes a permitted substitute or a permitted assign of that party;
- (d) A reference to a person includes any type of entity or body of persons, whether or not it is incorporated or has a separate legal identity, and any executor, administrator or successor in law of the person.
- (e) Headings are for convenience only, and do not affect interpretation.
- (f) A singular word includes the plural, and vice versa.
- (g) A word which suggests one gender includes the other genders.
- (h) If a word is defined, another part of speech has a corresponding meaning.
- (i) Words defined in the GST Law have the same meaning where context permits.
- (j) A reference to a party in this Agreement is a reference to you or us.

2.2 Multiple parties

If you are made up of more than one person then:

- (a) your obligations apply to each of those persons jointly and severally; and
- (b) any other reference to you is a reference to each of those persons separately, so that (for example) a representation, warranty or undertaking is given by each of them separately.