

WIDELINX® RESIDENTIAL BROADBAND TERMS AND CONDITIONS

1 DEFINITIONS

"**Equipment**" means equipment supplied by IP Systems for the purpose of connecting to and using the Widelinx® Service;

"**Contract Term**" is the term of your agreement (in months) as per the Services Application Form.

"**Form**" means the Service Application Form;

"**Service**" means a broadband internet service that you have requested that Widelinx® provide;

"**Widelinx®**" means a registered trade mark of Fraser Coast Regional Council licenced for use by IP Systems

"**IP Systems**" means IP Systems Pty Ltd (ABN 79 065 092 962), its related entities and their agents, employees or officers or its assignees or transferees, as provider of the Service;

"**you**" means the customer; and

"**your agreement**" means your contract with IP Systems for the provision of Widelinx® Services and includes the Form and these terms and conditions.

2 GENERAL

2.1 You acknowledge that IP Systems can only provide a Service to you if:

2.1.1 your premises are directly connected to either one of the Telstra exchanges located at Torquay, Pialba or Maryborough without connecting via a RIM; and

2.1.2 you have a Telstra telephone service connected to your premise.

OR

2.1.3 your premises are within a 15km radius of the base station situated on the communications tower at Ghost Hill; and

2.1.4 there is clear line of sight of Widelinx's base station located on that tower from your premises both at the time of installation of the Service and thereafter.

2.2 IP Systems will deliver to you the Service set out in the Form.

2.3 IP Systems may, on 30 days written notice to you, vary the fees and charges for the Service, but IP Systems will not vary the service deactivation fee set out in the Form(s) and which relates to your Service(s).

2.4 IP Systems may, vary any of these terms and conditions at any time on 30 days written notice and may post notice of those changes on Widelinx's website. You must regularly check Widelinx's website to ensure you are informed of any changes that may affect you. Your continued use of the Service and/or any Equipment owned by IP Systems 60 days after the date of the notice will constitute acceptance of the variation.

2.5 Any notice given by IP Systems under your agreement may be given by e-mail to your e-mail account.

2.6 You must not assign, transfer or licence, or attempt to assign, transfer or licence, your rights under your agreement with IP Systems. IP Systems may assign or transfer its rights or obligations under your agreement with IP Systems at any time. IP Systems will advise you if it does so.

2.7 If any of these terms and conditions is invalid or unenforceable, it will be struck out and the remaining terms and conditions will remain in force.

2.8 If IP Systems does not act in relation to a breach by you of your agreement, this does not constitute a waiver of IP Systems' right to act with respect to that or similar breaches.

2.9 IP Systems reserves the right to withdraw for good cause any Service at any time without notice in accordance with your agreement, including if IP Systems is unable to provide the Service due to events outside its control. IP Systems does not guarantee that its Service will be continuous or fault free.

- 2.10 The Service is provided exclusively for your private or business use at your designated address. You agree not to copy the Service, or to supply or re-distribute or offer the Service or Equipment to any other place, person or entity. You will not use the Service for illegal purposes.
- 2.11 You agree that you have obtained all necessary consents from the owner of your premises or equipment if you do not own the premises or any equipment to which the Services or Equipment are to be connected, and you will indemnify IP Systems from any claim by a third party with an interest in your premises or equipment relating to the installation, maintenance and removal of any Service or Equipment.
- 2.12 Your agreement shall be construed in accordance with and shall be governed by the laws in force in the State of Queensland. You and IP Systems hereby irrevocably submit to the jurisdiction of courts of Queensland and the appellate courts therefrom.

3 EQUIPMENT

- 3.1 IP Systems will provide the Equipment to you in good working order.
- 3.2 You must not cause or permit any Equipment to be altered, repaired, serviced or moved except by service personnel approved by IP Systems.
- 3.3 If you provide your own modem or router for use with the Service:
 - 3.3.1 You must ensure that any equipment used in connection with the Service that is not supplied by IP Systems has all necessary regulatory approvals, is not prohibited by law or any Regulator and is capable of operating with the Service.
 - 3.3.2 IP Systems will take no responsibility for the quality of Service received.

4 YOUR OBLIGATIONS

- 4.1 You agree to use the username and password that you have nominated. If you become aware that the password is no longer private and confidential, you must immediately inform IP Systems and provide a new password to IP Systems. You must not send or disclose your password to anybody other than IP Systems. You must not store your password in any form in any location, where it is capable of being read by anybody other than yourself.
- 4.2 You must not permit any other person, other than with your express permission, to use your password to access the Service. You accept full responsibility for all aspects of use of the Service by all persons using your username and password.
- 4.3 You are responsible for all equipment and software necessary to access the Service as well as for the security and integrity of your data. You acknowledge that IP Systems is not liable for loss or damage that you or anyone else suffers as a result of using that equipment, software or the Service, including, but not limited to, any damage to, or loss of, data caused by a virus or similar program.
- 4.4 The internet is a public medium. While connected to the internet, your computer/network may be subject to external security breaches or "hacking". You agree that it is your responsibility to install appropriate security devices to prevent unauthorised access to or exposure of your computer/network. You acknowledge that IP Systems is not liable for loss or damage due to any security breach of your computer/network.
- 4.5 It is a condition of the use of the Service that you agree and acknowledge that:
 - 4.5.1 IP Systems is not responsible for the content of the Service and does not endorse that content in any way;
 - 4.5.2 IP Systems is not under any obligation to monitor, control, remove or censor the content of the Service;
 - 4.5.3 you will not, through the Service, make remarks or publish material that is lewd, obscene, pornographic, threatening, harassing, illegal, abusive or defamatory or incite hatred to any other person or group or which may promote other to engage in such acts;
 - 4.5.4 you will not transmit over the Service any material of any kind which violates or infringes upon the rights of any other person, including material which is an invasion of any privacy or publicity rights or which is protected by copyright, trademark or any other proprietary right, or derivative works with respect thereto or which breaches any law or regulation or intentionally cause damage or injury to any person or property;
 - 4.5.5 you will not use the Service to post or transmit unsolicited electronic mail ("spam");

- 4.5.6 you will not post or transmit any material of any kind which contains a virus or other harmful or disabling component;
- 4.5.7 you will use the Service in a responsible manner;
- 4.5.8 you will not use the Service for the purposes of "hacking" into the computers or computer systems of IP Systems or other persons; and
- 4.5.9 you will not download any file posted by any other user of a service if you know, or ought reasonably to know, that the file cannot legally be distributed in such manner.

5 PAYMENT FOR SERVICES

- 5.1 You agree that your bill shall be sent to you electronically unless otherwise agreed. IP Systems reserves the right to direct debit your account if you do not receive the bill due to a fault with your equipment.
- 5.2 If the charges payable by you do not vary from period to period you will not be provided with a paper bill unless you so request. IP Systems reserves the right to charge for any paper bill so provided.
- 5.3 All payments are to be made by direct debit unless otherwise agreed.
- 5.4 You must pay all fees and charges for the supply of the Service and all taxes levied thereon by the due date therefore as set out in any monthly statement from IP Systems. Failure to make payment by the due date may, in IP Systems' discretion, result in late payment fees, suspension of the Service or termination of your agreement with IP Systems.
- 5.5 Any costs involved in collection of outstanding monies after the due date for payment will be passed on to you.
- 5.6 In addition to IP Systems' other rights you may be liable to pay to IP Systems:
 - 5.6.1 the late payment fee set out in the Form if any payment is not made by its due date; and/or
 - 5.6.2 the dishonour fee set out in the Form if any payment is rejected for any reason beyond the control of IP Systems.
- 5.7 Any amount payable for a Service or any Equipment supplied or any fee charged by IP Systems to you includes GST. Should the GST rate be varied by legislation, IP Systems reserves the right to vary the fees and charges for the Service or any Equipment accordingly pursuant to clause 2.3.
- 5.8 If you have in the reasonable opinion of IP Systems damaged any of the Equipment owned by IP Systems or installation points or connections installed in or to your home or business premises you are responsible for the cost of its replacement including the cost of the service call subject to any limitations imposed by law.

6 SUSPENSION OF SERVICE

- 6.1 If you breach the terms of your agreement or your payment for any Service is not received by IP Systems by its due date or is rejected for any reason beyond the control of IP Systems, IP Systems may immediately suspend all or any Services provided to you and IP Systems will notify you accordingly.
- 6.2 IP Systems will not reconnect the Service until the next business day following processing on receipt by IP Systems of payment for the Service together with any fees referred to in clause 5.5 or 5.6.
- 6.3 You are not entitled to a refund for loss of access to a Service for the period of suspension.

7 CANCELLATION OF AGREEMENT/SERVICES BY YOU

- 7.1 You may cancel your agreement or any Service at any time by written notice to IP Systems, but you must pay to IP Systems in full any amount then due under your agreement, or for that Service, including the Service deactivation fee set out in the Form (if applicable) and referred to in clause 9.
- 7.2 If you cancel your direct debit authority you will be deemed to have cancelled your agreement.
- 7.3 Upon cancellation of a Service or your agreement, a disconnect number may be issued to you, which is to be quoted on any queries relating to disconnection of your Service.

7.4 All monies owed by you to IP Systems in respect of your agreement are to be paid on the date of disconnection of your Service.

8 CANCELLATION BY IP SYSTEMS

Notwithstanding the provisions of clause 6, IP Systems may immediately terminate your agreement or the supply of any Service without notice if:

- 8.1 you fail to pay any overdue amount owing to IP Systems within seven days of being given written notice by IP Systems to do so;
- 8.2 IP Systems has on two separate occasions attempted to debit your nominated bank account pursuant to the direct debit authority and on both occasions the debits have been dishonoured;
- 8.3 subject to clause 8.1, you default in the performance of your obligations under your agreement and, if the default is capable of being remedied, you fail to remedy that default within 14 days of being given written notice by IP Systems to do so;
- 8.4 you are declared bankrupt;
- 8.5 you are or become insolvent, are placed under any form of external administration, suspend payment to your creditors or enter into an arrangement or compromise with your creditors or any class of your creditors; or
- 8.6 IP Systems reasonably suspects fraud or misuse of the Service.

9 EARLY TERMINATION/SERVICE DEACTIVATION FEE

- 9.1 You agree to pay, by way of liquidated damages, an amount calculated by multiplying the monthly charge, payable by the Customer under the relevant Service Application Form, by the number of months (or part thereof) to the end of the Contract term.
- 9.2 You agree that in the event of early cancellation or termination of your agreement for whatever reason you will, on the date of cancellation or termination, pay to IP Systems, in addition to any other amount payable pursuant to your agreement, the service deactivation fee amount set out in the Form.

10 EFFECT OF CANCELLATION OR TERMINATION

- 10.1 On termination your right to use the Service ceases.
- 10.2 If IP Systems determines that the Equipment is damaged, you agree to pay to IP Systems the amount set out in the Form and irrevocably authorise IP Systems to deduct that payment from the account nominated in the Form.
- 10.3 Upon cancellation or termination, IP Systems will not restore or reconfigure your premises or your equipment.
- 10.4 On termination, all fees and charges for use of the Service and all other amounts owing by you to IP Systems become immediately due and payable. You are not entitled to any refund of any amounts paid in advance to IP Systems under your agreement.
- 10.5 Termination does not affect any accrued rights or liabilities of either party nor does it affect any provision that is expressly or by implication intended to operate after termination.

11 INDEMNITY AND LIMITATION OF LIABILITY

- 11.1 Your use of the Services or the Equipment is your responsibility and entirely at your own risk.
- 11.2 You must indemnify IP Systems, both in contract and in tort (including negligence), against and hold IP Systems harmless from all claims, loss (including, but not limited to, lost profits, lost business or consequential loss), liability, expense, cost, charge or damage arising from or incurred in connection with your breach of your agreement or your use of or access to the Services or the Equipment.
- 11.3 To the extent permitted by law, all warranties or terms other than as expressly set out in your agreement, including any implied warranty or term, are excluded. Where liability cannot be excluded and where permitted by law, IP Systems limits its liability to, at IP Systems option, resupply of the Service or Equipment or refund of fees paid for the Service.

12 CUSTOMER PRIVACY ISSUES

- 12.1 All personal details contained on the Form may be disclosed by IP Systems to:
 - 12.1.1 enable IP Systems to perform its obligations to you under your agreement;
 - 12.1.2 enable IP Systems to ensure that you perform your obligations under your agreement;
 - 12.1.3 a credit reporting agency to obtain personal and/or commercial credit information about you and/or to allow the credit reporting agency to create or maintain a credit information file containing information about you; and
 - 12.1.4 collate marketing and research information relating to the supply of the Service to you by IP Systems.

- 12.2 You may request IP Systems, by contacting Widelinx®, not to use your personal details for the purposes of promoting or marketing Widelinx's products and services to you. If you do so, IP Systems will carry out your request as soon as is practically possible.
- 12.3 You are entitled to reasonable access to the information disclosed by you on the Form and to amend or correct that information.

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DIRECT DEBIT AUTHORITY

- 13.1 IP Systems is hereby authorised to debit the bank account nominated in the Form with all fees, charges and, if and when applicable, the additional charges set out in the Form.
- 13.2 IP Systems will debit the bank account nominated in Form on the direct debit processing date set out in the Form.
- 13.3 IP Systems will give not less than 30 days written notice to you should IP Systems propose to vary the arrangement of the direct debit authority.
- 13.4 You may cancel a direct debit authority on 30 days written notice to IP Systems or contact your financial institution. You may complete a "Direct Debit Cancellation" form available from Widelinx's office to effect the cancellation.
- 13.5 You may request IP Systems to defer or alter the payment amount specified in your monthly statement. Requests authorising these changes must be made in writing or in person at Widelinx's offices not less than seven days prior to the date on which the debit will be drawn. IP Systems reserves the right to charge you a fee for processing such requests.
- 13.6 In compliance with the banking industry's direct debit claims process, IP Systems will assist you if you dispute any payment amount drawn on the bank account nominated in the Form either with IP Systems or your financial institution. IP Systems will endeavour to resolve this matter within agreed time frames.
- 13.7 Some financial institution accounts do not facilitate direct debits. You must check with your financial institution to ensure that the account nominated in Form permits direct debit transactions.
- 13.8 It is your responsibility to ensure at all times there are sufficient funds available at the date on which the debit will be drawn to enable payment from the account nominated in the Form.
- 13.9 IP Systems will make the debit drawing on the agreed due date as nominated in the Form. When the due date is not a day on which your financial institution is open, IP Systems will initiate the debit drawing on the next working day. You may direct processing enquiries to IP Systems' accounts department.
- 13.10 If a debit is returned or dishonoured by your financial institution, IP Systems will charge an outward dishonour fee to your nominated account as set out in the Form.
- 13.11 If a debit is returned or dishonoured by your financial institution, IP Systems reserves the right to process that debit again in the month following the month of dishonour in addition to the fee for that following month.
- 13.12 IP Systems requests that you direct all enquiries, disputes, requests for changes to payment dates or amounts or cancellation directly to IP Systems.
- 13.13 IP Systems agrees to keep confidential all of your records and account details contained in the Form unless you authorise IP Systems to release such information pursuant to a debit item dispute or similar event where you have given your consent to do so.
- 13.14 IP Systems may immediately terminate this authority at any time, by providing written notice to you where:
 - 13.14.1 no further payment on the contract is required; or
 - 13.14.2 two attempts to complete payment have been dishonoured.