

Host Networks Ethernet Service Schedule v07.1

This Service Schedule forms part of the Services Agreement between Host Networks and the Customer and cannot be used as a stand-alone agreement. Any terms defined in the Master Services Agreement have the same meaning in this Service Schedule. Unless expressly stated otherwise, a reference to a clause, paragraph and/or part shall be a reference to a clause contained in this Service Schedule.

1. Parties

1.1. This Schedule applies between Host Networks Pty Ltd (“Host Networks”, “We”, “Us”, “Our”) and the Customer identified in a Ethernet Services Order Form (“You”, “Your”, “Customer”).

2. Contract Information

2.1. The Customer has:

2.1.1. signed or will sign a Service Order for Ethernet Services and a Master Services Agreement, and, in case of the first engagement for Ethernet Services, will sign this Service Schedule or;

2.1.2. placed an Service Order online for Ethernet Services and agreed to have read the Master Services Agreement and this Service Schedule and have signed a ‘Summary of Agreement for Supply of Services’ form.

2.2. This Schedule shall be incorporated in and form part of each Contract (as defined in the Master Services Agreement and which, for the avoidance of doubt, includes the Master Services Agreement and the Service Order) between the parties for the supply of Ethernet Services and contains the terms and conditions specifically relating to the Ethernet Services.

2.3. For the avoidance of doubt, any usage by the Customer and Your End-Users of any Ethernet Services constitutes acceptance of the above documentation.

3 Service Description

3.1. The Host Networks Ethernet Services is designed to provide a cost effective physical connection to the internet. Various models of Connection Methods, Speeds and Traffic Charges are available and will be specified in Your Ethernet Services Order Form.

4 Ethernet Services

Service Provision

4.1. Host Networks Shall:

4.1.1 provide to the Customer the Ethernet Service in accordance with the terms and conditions contained in this Schedule and the Contract.

4.1.2 Notify the Customer upon completion of provisioning and installing the Ethernet Service.

Service Levels

4.2. If Service Levels are specified in Annexure 1, Host Networks shall provide the Ethernet Services in accordance with such Service Levels.

4.2.1 Host Networks obligations to give or allow such rebates is the full extent of Host Networks liability and the Customer's sole and exclusive remedy in respect of any failure by Host Networks to meet the Service Levels.

5 Customer Obligations

5.1. Acceptable Use Policy

5.1.1 You will comply, and will ensure that each of Your End Users complies, with the Acceptable Use Policy. You confirm that You have read and understood the Acceptable Use Policy prior to utilising the Ethernet Services.

5.1.2 You acknowledge that Host Networks may at any time amend the Acceptable Use Policy or cancel the Acceptable Use Policy and introduce a replacement Acceptable Use Policy and such amendment, cancellation or replacement shall be binding on You on and from the date that it is published on the Host Networks Web Site.

5.2. Acknowledgments

5.2.1 The Customer acknowledges that:

- (a). the Host Networks Network is not necessarily a secure and confidential method of communications and You shall transmit material on the Host Networks Network at Your own risk.
- (b). Host Networks does not and cannot in any way supervise, edit or control the nature, content and form of any material available to be accessed through use of the Services and that Host Networks is not responsible in any way for the nature, content and form of that material, access to that material or use of that material.
- (c). Host Networks will not be responsible for ensuring that any material sent or received by means of the Services is sent or received correctly.
- (d). You acknowledge that, to the extent permitted by law, Host Networks makes no representations or warranties as to the effectiveness or fitness for purpose of any access restrictions, Host Networks

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network security or Your network security. You shall make no claim against Host Networks concerning any access restrictions, Host Networks network security or Your network security. You shall make no claim against us or any Third Party concerning any access restrictions, our network security, any Third Parties' network security or Your network security.

- (e). You agree not to disclose to any other person any identification or log-in information, whether in use or not, nor any other confidential information relating to the Services, other than to Your employees, agents and contractors who require this information to properly perform their function.

6 Term

- 6.1. The Contract shall commence on the date of signing. The Ethernet Services shall commence on the Service Commencement Date specified in the Service Order and shall, unless terminated earlier in accordance with the terms of this Contract, continue in full force and effect for the Initial Term set out in the Service Order.

7 Fees and Charges

- 7.1. The Customer shall pay to Host Networks the fees set out in the Co-location Service Order including any excess usage charges and any additional fees for any other Services performed from time-to-time and payable on the Terms and Conditions set out in the Service Order and/or Master Services Agreement.
- 7.2. Unless Host Networks agrees otherwise in writing, the Customer must pay the Charges set out in Host Networks invoice within fourteen (14) days of the date of the invoice. If You fail to pay Host Networks the Charges within this period, Host Networks may suspended, terminate, charge late fees or charge interest on the outstanding amount at the Interest Rate, which shall accrue daily from the due date for payment until the actual date of payment to Host Networks.

8 Liability & Indemnity

- 8.1. You indemnify Us and any Third Parties, and will keep Us and any Third Parties fully indemnified, from and against any losses, damages, costs or expenses (including legal costs assessed on a solicitor client basis) which we and the Third Parties may suffer or incur arising out of or in connection with an action or claim brought by a third party against us and/or the Third Parties which relates to Your use of the Services.
- 8.2. We and any Third Party will not be responsible for any loss or damage to Your business which may result from any interruptions, delays, faults or errors in the supply of the Services.
- 8.3. All terms, conditions or warranties which may be implied into this Agreement, statutory or otherwise, relating to the provision by us and any Third Party of the Services are excluded to the fullest extent permitted by law.
- 8.4. Our liability and the liability of any Third Party for breach of any term, condition or warranty or under any remedy implied by law (which cannot be excluded) will be:
 - 8.4.1 limited (if permitted by law) at our option to the repair or re-supply of equipment or Services or the payment of the cost of having the equipment or Services resupplied; and
 - 8.4.2 reduced to the extent that such liability is caused by Your negligent acts or omissions, or a breach by You of the terms of this Agreement.
- 8.5. The aggregate of our liability and the liability of the third parties to You for all direct, indirect and consequential losses, damages, costs, expenses, actions and claims arising out of or otherwise in connection with this Agreement, whether based on an action or claim in contract, equity, negligence, intended conduct, tort or otherwise, is limited to the total fees paid by You under this Agreement in respect of the relevant Services in the six (6) months preceding the relevant cause of action accruing (or, if there is more than one, the last cause of action accruing).
- 8.6. Neither we nor the third parties have any liability to You or to any other person for:
 - 8.6.1 the acts or omissions of any third party, including the suppliers which have been engaged by us or any third party for the purpose of supplying or maintaining a Service;
 - (a). faults or defects in Services which are caused by Your own conduct or misuse;
 - (b). faults or defects that arise in telecommunications services provided to You other than under this Agreement (even if they are connected with our consent to Services that we have arranged);
 - (c). any loss of revenue or profits, loss of data, loss of bargain and damage to reputation or for any form of indirect or consequential loss whether in respect of negligence or other tort, breach of contract, equity or otherwise, arising out of or in connection with the provision of the Services or this Agreement;
 - (d). faults or defects in the Services that arise due to equipment or cabling owned or leased by You, or otherwise in Your control; or
 - (e). faults or defects in the Services that arise due to failure by You or any third party to appropriately maintain any equipment relevant to the supply of the Services.

9 Definitions

- 9.1. Terms shall have the meaning given to them in the Master Services Agreement between Host Networks and the Customer.
- 9.2. In addition, in this Schedule the following definitions apply:

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Acceptable Use Policy means the policy which can be viewed on the Host Networks Web Site and as amended by Host Networks from time to time.

Ethernet Services means the Ethernet services described in the Service Order Form.

Host Networks Web Site means the web site that this Service was requested from.

Service Commencement Date means the date the Service is provisioned and ready for use by the Customer.