

# Our Customer Relationship Agreement

## FIXED LINE TELEPHONY & BROADBAND SERVICE DESCRIPTION

**TransACT Victoria Communications Pty Limited** ACN 063 024 475

Phone: 13 30 61

1/502 Hay Street, Subiaco WA 6008

**17 September 2013**

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Rules of interpretation and capitalised terms used in this Service Description are defined either in the General Terms of our CRA or in clause 15 of this Service Description.

### **1. ABOUT THE FIXED LINE TELEPHONY & BROADBAND SERVICE DESCRIPTION**

#### *Our Customer Relationship Agreement*

- 1.1 This is the Fixed Line Telephony & Broadband Service Description which forms part of our CRA under which we supply phone and Internet access services to you.
- 1.2 The General Terms of our CRA, and the other documents listed in clause 1.2 of the General Terms, also apply to the Fixed Line Telephony & Broadband Services.

### **2. OWNERSHIP, USE AND CARE OF THE EQUIPMENT**

- 2.1 If we have supplied you with Equipment you agree:
  - (a) to promptly report faults in the Equipment to us;
  - (b) to take all due care of the Equipment, and protect the Equipment from any loss, damage (excluding reasonable wear and tear), theft or detention;
  - (c) not to use the Equipment at any location other than the Premises.
- 2.2 If the Equipment is lost, damaged, stolen or detained:
  - (a) you must promptly notify us; and
  - (b) we may charge you a fee for any lost, damaged, stolen or detained Equipment.
- 2.3 You are responsible for obtaining insurance cover for the Equipment and for any misuse or fraudulent use of the Equipment or any of the Services.
- 2.4 If Equipment, a product or access device you are using interferes with the operation of the TransACT Victoria Network you must, on our reasonable request, provide that Equipment, product or access device to us to inspect and cease using that Equipment, product or access device until we confirm that it may be used to access the Service(s).

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2.5 If applicable, we may, at your request, provide you with one or more additional set top box(es) and/or modems at the rental per set top box and/or modem set out in the Application.

### 3. USE OF THE SERVICE(S)

#### *Internet services*

3.1 In clauses 3.3 to 3.4, a reference to Service means an internet service.

3.2 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 we are not liable for loss or damage due to any security breach of your computer/network.

#### *Special provisions for dial-up Internet services*

3.3 In clause 3.4, a reference to Service means dial-up internet services.

3.4 You agree and acknowledge that:

- (a) the Service may be disconnected if a period of idle time is detected;
- (b) maximum session times may apply (4 hours);
- (c) automated disconnection prevention devices are not permitted, and any attempt to install such a device shall allow us to terminate your access to this Service;
- (d) this Service is not designed for continuous connection;
- (e) access to this Service may be limited to ensure acceptable network performance to all users; and
- (f) your calling line identification (**CLI**) may be received by us regardless of whether or not you have blocked CLI or calling number display (**CND**), but your CLI or CND will only be used by us in compliance with its legal obligations, including under the Communications Alliance Code C522, and will not otherwise be used in any way prohibited by law.

#### *Fixed-line telephone services*

3.5 In clauses 3.6 to 3.9, a reference to Service means fixed-line telephone services.

3.6 Fixed-line telephone Services **will not operate** in the event of a power failure or disruption. This means that you will not have access to emergency services, 000 services and that back-to-base alarms will not function. You acknowledge that **you cannot rely on fixed-line telephone Services as a lifeline service** for yourself or any other person with a life threatening condition.

3.7 If we supply you with fixed-line telephone Services:

- (a) You acknowledge that we may need to change your Service Number from time to time. You are not eligible to claim goodwill in your Service Number.

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- (b) You may request us to change your Service Number, however, a charge may be applicable to each change.
  - (c) We will waive any charge applicable to changing your Service Number if the change is necessary due to nuisance or un-welcome calls.
  - (d) From time to time in order to comply with the ACMA's Telecommunications Numbering Plan 1997 and other regulations and directions relating to numbering published by the ACMA, we may be required to change your Service Number. In such a case, we will give you as much notice as reasonably possible.
  - (e) You are responsible for the provision of telephone handsets in order to receive the telephone Service. You may be required to provide other equipment in order to utilise particular Equipment.
  - (f) If you do not already have a phone number for use with the Service we will allocate you a Service Number, in accordance with the Telecommunications Numbering Plan.
  - (g) You acknowledge that we may be required by the Telecommunications Numbering Plan to change, withdraw or suspend your Service Number from time to time.
  - (h) You do not own and cannot claim goodwill in your Service Number. Your right to use the Service Number ends if you no longer obtain the Service from us (unless you transfer the Service Number);
  - (i) If you stop using the Service and do not transfer your Service Number, we may re-allocate your Service Number to another customer in accordance with the Telecommunications Numbering Plan.
- 3.8 We are not liable to you for any expense or loss incurred by you or your business due to any change, withdrawal, re-allocation, suspension or cessation of your right to use your Service Number.
- 3.9 You must only use the Service to make or receive calls or other telecommunications services on the TransACT Victoria Network. You must not:
- (a) transit, refile or aggregate telecommunications traffic of any kind on the TransACT Victoria Network; or
  - (b) use the service in connection with a device that switches or reroutes calls to or from the TransACT Victoria Network.

## **4. USE OF THE SERVICE(S) IS YOUR RESPONSIBILITY**

- 4.1 You agree that you are responsible for the use of the Service(s) by you or any other user (whether authorised by you or not), including (without limitation):
- (a) calls made and messages sent;
  - (b) content or software downloaded and the effect it may have on Equipment or Service(s) or any other equipment owned or operated by you;

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- (c) products and services purchased via your Account or Service(s);
- (d) information provided to others;
- (e) installation or use of any equipment or software, whether provided by us or not;
- (f) modification of any settings or data on your Service(s) or related services or equipment whether instructed by us or not;
- (g) the personal supervision of any users under the age of 18 who use the Service(s); and
- (h) the lawfulness of your activities when using the Service(s) and accessing any sites and third party content.

4.2 Unless agreed with us otherwise, you are responsible for:

- (a) the purchase, installation, configuration, and maintenance of suitable equipment and software to access the Service(s);
- (b) using any product and software in accordance with relevant legislation, guidelines and instructions; and
- (c) any misuse or fraudulent use of the Service(s) that results in loss to us or third parties.

4.3 You must only use equipment in connection with the Service(s) that complies with relevant technical standards.

## **5. PERSONAL PROPERTY SECURITIES ACT 2009 (CTH) (PPSA)**

5.1 You acknowledge and agree that:

- (a) our ownership of the equipment which we supply to you to receive our services is a “PPS lease” and a “security interest” within the meaning of the PPSA;
- (b) we may at any time without notice to you register any such security interest with the Insolvency and Trustee Services Australia or any other relevant government authority;
- (c) we may at any time, by giving written notice to you, require you to give us reasonable assistance to register or perfect any such security interest, including by executing documents, giving your consent, and providing us with information:
- (d) to the extent section 115(1) of the PPSA allows this, sections 95, 125, 130, 132(3)(d), 132(4), 142 and 143 of the PPSA will not apply to any security interest in our equipment;
- (e) to the extent section 115(7) of the PPSA allows this, sections 127, 129(2), 132, 134(2), 135, 136(3), (4) and (5) and 137 of the PPSA will not apply to any security interest in our equipment;

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- (f) you waive any right to receive any notice required to be provided under the PPSA (including under sections 144 and 157) in respect of each PPSA Security Interest unless the requirement to give the notice cannot be waived or excluded.

5.2 In this clause 5, **PPSA** means the Personal Property Securities Act 2009 (Cth)

### **6. YOU MAY SUSPEND OR DISCONNECT THE SERVICE(S) OR TERMINATE OUR CRA**

6.1 Subject to clause 8, you may, at any time, request the suspension or disconnection of any Service provided under our CRA or termination of our CRA by giving us 1 month's notice either:

- (a) by mail addressed to:

Customer Care  
TransACT Victoria Communications Pty Ltd  
PO Box 1006  
Civic Square ACT 2608

or such other address as set out in the Pricing Schedule from time to time;

- (b) by facsimile addressed to Customer Care and sent to: (02) 6229 8011 or such other number as set out in the Pricing Schedule from time to time;
- (c) by telephoning us on: 13 30 61 (between the hours set out in the User Guide) or such other numbers as set out in the Pricing Schedule from time to time; or
- (d) by email: [customer.care@transact.com.au](mailto:customer.care@transact.com.au) or such other email address as set out in the Pricing Schedule from time to time.

### **7. WE MAY SUSPEND, RESTRICT OR DISCONNECT THE SERVICE(S) OR TERMINATE OUR CRA**

7.1 We may suspend or restrict any or all of your Service(s) without notice, where you exceed the amount of your Credit Limit and we have provided you with at least 5 business days' notice.

7.2 We may disconnect any or all of your Service(s) or terminate our CRA without notice, where a Service has been suspended or restricted for longer than 2 months.

7.3 We may discontinue a Service and replace it with a reasonable substitute. You may choose to disconnect the substitute service on Equal Terms. The remainder of our CRA, in relation to any other Services, remains on foot.

### **8. CONSEQUENCES OF DISCONNECTION OR TERMINATION**

8.1 Upon termination of our CRA, we are not responsible for connecting or reconnecting any appliance to any telephone network or other communication network or system.

8.2 We are not obliged to remove any Equipment from the Premises or carry out any repairs to the Premises in connection with the installation or removal of the Equipment.

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8.3 This clause 8 survives termination of our CRA.

### **9. KEYWORDS AND PASSWORDS**

9.1 Keyword, usernames, pass codes or passwords (**Access Security Codes**) may from time to time be issued or selected by you or your authorised users in relation to the use of the service or accessing your Account. You and the authorised users must not disclose to any person your Access Security Codes and we take no responsibility should you or the authorised users do so. If you become aware that any of your Access Security Codes are no longer private and confidential, you must immediately inform us and provide us with new Access Security Codes for your Account.

9.2 You acknowledge and agree that you are responsible for the security of your Keyword or usernames, pass codes or passwords created for the secure transmission of your information, and agree to take all appropriate measures to prevent others having unauthorised access to your Keyword or usernames, pass codes or passwords. We will not be liable for any loss or damage suffered by you or authorised users due to the unauthorised use of your Keyword or usernames pass codes or passwords.

### **10. PRIORITY SERVICES**

10.1 TransACT does not offer a special priority assistance service to customers with life threatening medical conditions. TransACT will act on a best efforts basis but cannot guarantee priority connections and fault resolution given the reliance on third party suppliers.

### **11. SECURITY AND PRIVACY**

11.1 You acknowledge that, if you do not ask us to block the caller number display service, your service number may be displayed to parties you call.

11.2 You acknowledge and agree that we do not guarantee the security of information conveyed over the TransACT Victoria Network and that we are not liable to you for any loss or damage resulting from the diversion, publication, corruption or inappropriate or unlawful use of any information provided over the TransACT Victoria Network to or from any third party.

11.3 You acknowledge and agree that you are responsible for the security of any user identification or passwords created for the secure transmission of your information, and agree to take all appropriate measures to prevent others having unauthorised access to your user-identification or passwords. We will not be liable for any loss or damage suffered by you due to the unauthorised use of your user-identification or passwords.

### **12. LIMITATION OF LIABILITY**

12.1 You acknowledge and accept that because we are still in the process of constructing the TransACT Victoria Network, we may not be able to connect some Services within the timeframes specified in the CSG. For this reason, we may ask that you sign a CSG Waiver to release us from our obligations in this regard.

### **13. WARRANTY AND INDEMNITY**

13.1 Subject to the Consumer Guarantees, we do not warrant that the Service(s) will be provided on an uninterrupted or fault-free basis.

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13.2 You agree to indemnify us in relation to any liability arising from or in connection with suspension or disconnection of your service, including in relation to any third party claiming through you.

### 14. MISCELLANEOUS

14.1 We may pay commissions to any person who introduces you to us.

14.2 Termination of our CRA for any reason does not affect any rights or obligations of the parties which by their nature survive termination, including clauses 8 and 11.

### 15. DICTIONARY

**Absolute Credit Limit** means the amount that we have assessed as being the total amount that your Account may reach at any point in time.

**Account** means your account with us for the service.

**ACMA** means the Australian Communications and Media Authority.

**Advance payment** means a payment payable by you against future charges likely to be incurred on your Account.

**Assessment Policies** means the policies used by us to assess credit worthiness.

**Bill Address** means the address provided in your Application as the address to which bills and other information should be delivered.

**Billing Period** means the period in which you are billed by us for service. You will have 12 billing periods per year unless we advise otherwise.

**Charges** means the charges, fees and rates notified by us from time to time (including in the Plan Details) and payable by you for processing an Application, connection of an account, issuing of a Service Number and use of the Service(s) and Equipment (including via any promotion) and including any additional amounts of applicable GST.

**Credit Limit** means the amount of credit we are willing to allow you to access in terms of unpaid Charges on your Account as a result of our Assessment Policies.

**Credit Management Action** means any action undertaken by us or another party acting on our behalf to:

- (a) limit or manage your access to our service to ensure payment for use of the service;
- (b) manage payment of your Account;
- (c) assessing your existing or on-going credit worthiness.

**Customer Service Guarantee or CSG** means any performance standard of that name (as current) made pursuant to the *Telecommunications (Consumer Protection and Service Standards) Act 1999* (Cth).

**CSG Waiver** means the form entitled, "TransACT Victoria Communications Pty Limited Customer Service Guarantee Standard Waiver" (or similar).

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**Early Termination Payment** means a genuine pre-estimate of the loss we will incur as a result of your termination of our CRA within the Minimum Term and includes our costs of installing and provisioning the Service.

**Equal terms** means cancellation without incurring fees or charges other than Charges incurred up to the date of termination and any outstanding costs for installation services or for any product that can be used in connection with another service provider.

**Equipment** means any equipment or software provided by us to you and may include any or all of modems, set top boxes, remote control units, telephony devices, cabling and outlets and network distribution boxes, but does not include:

- (a) telephone handsets or equipment; or
- (b) installation points or connections installed by us in Your Premises; or
- (c) any equipment purchased from us under our CRA.

**Keyword** means the secret word chosen by you in your application as a means to confirm or assist to confirm your identity.

**Late Payment Fee** means the pro rata amount we calculate we incur as a result of your late payment of the Charges.

**Minimum Term** means either 6, 12 or 24 months, as set out in the Application and/or Pricing Schedule for your Equipment(s) and Service(s).

**Service Number** means the telephone number(s) used in connection with the Services

**Third Party Services** means the services provided by third parties to you under one or more agreements.

**TransACT Victoria HFC Network** means the Hybrid Fibre-Coaxial network operated by us in Ballarat, Geelong and Mildura.

**TransACT Victoria Network** means the telecommunications system comprising all links, cables, radio, microwave and other transmission media and equipment, switches, software and related items owned and operated by us to make available and provide the Services, and includes the TransACT Victoria HFC Network.

**User Guide** means the user guide for the Service(s) as amended and available from the TransACT Website.