

brennan\_

# BVD Service Terms & Category Terms

Only applies to contracts signed prior to  
1st April 2019

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# Introduction

This document details the Category and Service Terms associated with the Brennan Voice and Data products and services we provide.

# Definition of Category Service

## Terms

The excerpt below is taken from our SFOA and describes Category Terms & Service Terms as:

### **6. About Services and Categories**

- 6.1. A 'service' means any goods or service that we offer or supply.<sup>4</sup> Each service may be briefly identified by its 'service description'.
- 6.2. A 'category' is a group of similar services that we designate as a category.<sup>5</sup>
- 6.3. We may assign a service to more than one category.<sup>6</sup>

### **7. Category Terms**

- 7.1. 7.1 We may publish extra terms that apply to a category of services ('category terms').
- 7.2. 7.2 Category terms are set out in another document.
- 7.2. 7.3 Category terms only apply to the services in the category they relate to.
- 7.3. 7.4 Category terms are also part of our standard form of agreement.

### **8. Service terms**

- 8.1. We may also publish extra terms that apply to a particular service ('service terms').
- 8.2. Service terms may be set out in service information, or on an application form, or otherwise notified to you.
- 8.3. Service terms only apply to the service they relate to.
- 8.4. Service terms may include, or incorporate by reference, a service level guarantee.
- 8.5. Service terms are not part of our standard form of agreement, but they are part of our customer contract with you

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<sup>4</sup> e.g. a 256 DSL internet access service is a 'service'.

<sup>5</sup> e.g. DSL internet access services or managed services are both 'categories'.

<sup>6</sup> e.g. a managed DSL service may fall under our DSL category and our managed services category.

# Voice Service Terms

Providing Telecommunications Service & Call Carriage to Customers.

Our Voice Services adhere to the Customer Service Guarantee or CSG as it is known, which is contained in the Telecommunications (Customer Service Guarantee) Standard 2000 (No.2) (as amended) and is made under the Telecommunications (Consumer Protection and Service Standards) Act 1999 and available on our website.

## 1. Call Charges

- 1.1. The Call Charges for your Voice Service is calculated on a daily basis.
- 1.2. As agreed to on the Voice Services Order Form, we charge a flat fee or a per minute fee depending on the nature of the call (e.g. local, national, fixed to mobile etc).
- 1.3. Where we have stipulated a per minute fee we charge in 1 second increments.
- 1.4. When we work out the length of a call in seconds, we count an incomplete part of a second as a full second.
- 1.5. We define Local Calls as, calls that are placed outside of the designated Charging District, as defined by the providing Telecommunications Carrier.

## 2. Fair Use Policy

- 2.1. A Fair Use Policy applies to any voice services that contain Included Call Plans
- 2.2. Included Call Plans may be offered to 'standard small to medium sized business' in conjunction with our Fair Use Policy; including Standard Calls defined as:
  - Calls to Australian landline phone numbers (Local and national calls); and
  - Calls to Australian Mobile Networks.
  - All other call types are specifically excluded.
- 2.3. A 'standard small to medium sized business' is defined as a business that engages in normal trading activities, during standard business hours applicable to businesses located within their geographic region
- 2.4. Our Fair Use Policy is intended to ensure that our customers do not use our Services in an excessive, unreasonable or fraudulent manner or in connection with equipment that has not been approved by us.
- 2.5. Fair Use measures include, but are not limited to:

- On average, 95% of timed calls made from your service last no more than 30 minutes
- No reselling, rerouting or commercial exploit of the Included Call Plans

2.6. As the Service Provider we can collect information and investigate whether you are complying with the Fair Use Policy. If we find that you aren't, and you do not comply within 30 days of us telling you, we may change or suspend your Service.

# Internet Service Terms

Brennan Internet services give you a high performance, dedicated connection to the Internet via our points of presence around Australia.

## 1. Plan allowance

- 1.1. Plans can either be Unlimited or Usage Based as outlined on the Quote/Agreement.
- 1.2. If you have a Usage Based plan and exceed your plan allowance we will charge and excess fee as defined on the Quote/Agreement.
- 1.3. The excess use charges are billed in arrears per Megabyte
- 1.4. If you have an unlimited plan you may download and upload as much data as required.

## 2. Downgrading access speed or plan

- 2.1. You may apply in writing to us to downgrade either the access speed of your Internet service or your Plan Allowance within the Contract Term.
- 2.2. We may at our discretion decline to downgrade these services; or
- 2.3. We may at our discretion reset the Minimum Contract Term from date of agreement to downgrade.
- 2.4. We will apply a newly agreed Monthly Charge to your account.

# IP & Data Communication

## Service Terms

A service allowing a Customer of Brennan to connect multiple sites to facilitate the flow of private company data.

You can use a variety of access methods including DSL, Ethernet, and Frame etc.

### 1. Downgrading access speed

- 1.1. You may apply in writing to us to downgrade the access speed of your IP & Data Communications service within the Contract Term.
- 1.2. We may at our discretion decline to downgrade these services; or
- 1.3. We may at our discretion reset the Minimum Contract Term from date of agreement to downgrade.
- 1.4. We will apply a newly agreed Monthly Charge to your account.

### 2. Carriage Services

- 2.1. We provide the Internet service to you over a connecting carriage service. A connecting carriage service is the telecommunications service between your premises and our point of presence.
- 2.2. The available connecting carriage services for the Private IP service are:
  - 2.2.1. 3G
  - 2.2.2. ADSL;
  - 2.2.3. SHDSL;
  - 2.2.4. BDSL;
  - 2.2.5. Wireless and Satellite;
  - 2.2.6. Midband Ethernet (MBE);
  - 2.2.7. Frame Relay;
  - 2.2.8. Ethernet;
  - 2.2.9. Dark Fibre
  - 2.2.10. NBN; and
  - 2.2.11. any other connecting carriage service we approve.



# Co-Location Service Terms

Co-location is a service where we house equipment in a Brennan data centre in a secure and managed environment. We connect the equipment to either private network or public network (or both) as required by the client.

## 1. Set Up Charges

We charge a set up fee, unless otherwise agreed to on the Quote/Agreement document to set-up a Co-location service. This includes:

- 1.1. Installation of the cabinet service
- 1.2. All external or intra (rack to rack) cabling
- 1.3. Allocate, configure and test public and/or IP addresses
- 1.4. Resolve IP address conflicts involving IP addresses allocated to you by Brennan.
- 1.5. Reclaim IP addresses upon release by you or termination or expiration of your contract.
- 1.6. Provide cabling between Customer Space and the Brennan network connection.
- 1.7. This does not include:
  - 1.7.1. Internal rack cabling
  - 1.7.2. Installing, maintaining, administering or monitoring hardware
  - 1.7.3. Installing, maintaining, administering or monitoring applications

## 2. Access to Brennan Data Centres

- 2.1. Access is only provided on a "Needs Be" basis, unless otherwise agreed, in writing by you and Brennan.
- 2.2. Customers and their representatives require a Brennan escort to gain access. A supervisory presence must be maintained.
- 2.3. Before being granted access to a Brennan data centre, we may require your authorised persons to:
  - 2.3.1. identify themselves to us, present a photo identification card acceptable to us, and log their time of arrival and any equipment with the escort and/or security guard;
  - 2.3.2. be appraised of and follow our fire evacuation, occupational health and safety and other site procedures and regulations (for example, by completing an induction course with us);

- 2.3.3. Allow any containers, equipment or other material that your authorised persons wish to bring into a managed data centre to be inspected;
- 2.3.4. Not take anything into a managed data centre that we think is dangerous, unsuitable, or likely to interfere with other equipment or another person's access to the data centre. These items include (but not limited to):
  - 2.3.4.1. explosives and weapons;
  - 2.3.4.2. radioactive material;
  - 2.3.4.3. alcohol or illegal drugs;
  - 2.3.4.4. cameras and recording devices;
  - 2.3.4.5. food and drink;
  - 2.3.4.6. any other objectionable material.

## 2.4. Access Cards

- 2.4.1. Clients are only issued an access card once they have contracted a complete rack.
- 2.4.2. We may charge you for this service.
- 2.4.3. We may also ask you to complete an Induction Programme.

## 2.5. Client Co-Lo Access

- 2.5.1. Clients requiring access (either direct or "Remote Hands" through Brennan staff) must log a call with the Service Desk.
- 2.5.2. This call will be escalated to a Brennan Voice & Data engineer queue during business hours, and to the on-call BVD engineer outside of hours.

## 3. Cabling

- 3.1. We are not responsible for cabling of the Main Distribution Frame Room (MDF) or Intermediate Distribution Frame (IDF).
- 3.2. We reserve the right to charge you for any costs incurred for the provision of network extension cables or infrastructure.
- 3.3. We will tell you if a network extension charge is payable and obtain your approval before we start work.

## 4. Patching

- 4.1. All Patching must follow proper cable routes
- 4.2. Patching between non-adjacent racks is not permitted.

- 4.3. All Fibre services must be properly installed in conduit access. This includes patching between racks. 4.4. Any non-standard patching requirements requires Brennan engineering approval.
- 4.4. All patching must be kept neat and tidy.
- 4.5. Excess cable must not be stored under floor – use of the correct cable length is required.

## **5. Changes to co-located equipment**

- 5.1. All significant changes made in Brennan Data Centres which impact multiple customers must be done through the Change Control process.
- 5.2. The Brennan Helpdesk Change mechanism is to be used, with an SLA of 24 hours for standard requests.
- 5.3. The facilities' systems and/or controls may only be operated by Brennan Voice & Data Engineer.
- 5.4. Patching Changes
  - 5.4.1. Patching inside racks does not require Change Control.
  - 5.4.2. All rack patching is to be done by Brennan Voice & Data engineers
  - 5.4.3. Changes to the patch panels are to be done by Brennan Voice & Data engineers.
  - 5.4.4. Clients with multiple racks may patch between them without supervision.
- 5.5. Emergency Requests can only be raised against existing Infrastructure
- 5.6. Emergency requests must be handled by Brennan Voice & Data engineer.

## **6. Physical access times**

- 6.1. Clients are provided access during normal working hours (8:30am-5:30pm, Monday-Friday).

## **7. Tag and testing**

- 7.1. Labelling
  - 7.1.1. You must ensure that every configuration item is labelled
  - 7.1.2. The minimum labelling information is
    - 7.1.2.1. Client Name
    - 7.1.2.2. Device Name

## **8. Your responsibilities**

- 8.1. You must ensure that:

- 8.1.1. your equipment does not use more than the maximum power that is specified in the Quote/Agreement (unless we consent in writing to a different maximum power supply in which case, you must pay an additional charge for the power and ensure that your equipment does not use more than the agreed maximum power supply);
  - 8.1.2. the size and weight of your equipment does not exceed more than the maximum size weight that we specify to you (unless we consent to a different size and weight in which case, you must pay an additional charge and ensure that the size and weight of your equipment does not exceed the agreed maximum size and weight); and
- 8.2. We may suspend your Co-location service if you do not comply with your other responsibilities relating to your Co-location service. We will notify you of the reason for your suspension as soon as possible and you will have 30 days to remedy the issue.
- 8.2.1. Should you not comply and remedy the breach within the 30 day timeframe, we will issue a notice to terminate your service.

# Hosting Service terms

Hosting services are where we host applications like Websites, DNS, Content Filtering, Anti Spam and Anti Virus on our own physical infrastructure and provide access to clients as part of their Account Services.

## 1. Your Data

- 1.1. We may host or store your data as part of your service.
- 1.2. You grant us a licence to copy and store your data for the sole purpose of providing you with your service.
- 1.3. We require that the data that we host or store for you meets certain standards. If we do not think that your data meets these standards, we may suspend or cancel your service or we may direct you to remove your data. Some examples of data that does not meet our standards includes pornography or data that could be offensive or defamatory.
- 1.4. We may delete your data immediately after the cancellation of your service. We will try to give you notice before we do this. However, we recommend that you make a copy of your data before or immediately after your service is cancelled.

## 2. Security

- 2.1. We aim to keep your service secure so that your infrastructure is not visible to third parties.
- 2.2. We aim to protect our equipment against intrusions, viruses, Trojan horses, worms, time bombs or other similar harmful software which may affect your service, however we do not guarantee protection.
- 2.3. You must take steps to prevent unauthorised access to your service and our service platform including not disclosing user names and passwords that we provide you (except as required by the service).
- 2.4. You are responsible for the use of your service by your users.

## 3. Anti-Virus service

- 3.1. The anti-virus service provides you with centralised monitoring, detection, pattern file management and outbreak notification of viruses known by the software and emerging computer viruses known by the software. The anti-virus service aims to block viruses at the agreed location in your network equipment.

## **4. Anti-Spam service**

- 4.1. The anti-spam service assists you with managing the spam that you receive. It screens and blocks certain email based on the instructions and formulas we agree with you. You can select certain features for your anti-spam service including:
  - 4.1.1. Immediate spam deletion: emails that are recognised as spam are deleted without reaching your users;
  - 4.1.2. Tag and deliver spam: emails that are recognised as spam are tagged as spam (for example, by adding 'spam' in the subject line) and delivered to the end user; or
  - 4.1.3. Spam redirection: emails that are recognised as spam are sent to a mailbox of your choice to be reviewed by your technical staff.
- 4.2. You can ask us to customise your anti-spam service for an additional charge (for example, custom filters, attachment size filtering, message size filtering etc.)

## **5. Content filtering service**

- 5.1. The content filtering service allows you to restrict websites that your users have access to. We restrict access to certain websites based on the instructions we agree with you. The content filtering service also blocks:
  - 5.1.1. spyware and adware that is known by the software;
  - 5.1.2. hacking and remote access tools that could harm your network that is known by the software; and
  - 5.1.3. transmission of outbound data to phishing-related websites that are known by the software.

## **6. Service limitations**

- 6.1. We use software to provide the Managed Content Security service and that software is not error-free.
- 6.2. You acknowledge that:
  - 6.2.1. the anti-virus service may not remove all viruses (including where viruses are within attachments that are compressed, zipped, password protected or encrypted);
  - 6.2.2. the anti-virus service may incorrectly identify an email or attachment which does not contain a virus;

- 6.2.3. the anti-spam service may not screen or block all emails that are designated as 'spam';
  - 6.2.4. the anti-spam service may screen or block emails that have not been designated as 'spam' ('spam', as agreed between you and us);
  - 6.2.5. the content filtering service may block certain websites that you have not specified to be blocked; and
  - 6.2.6. the content filtering service may not block certain websites that you have specified to be blocked.
- 6.3. If you identify one of the above limitations in the Managed Content Security service, you should notify us immediately and to the extent possible, we will endeavour to rectify the issue at no additional charge.

## **7. Service management**

- 7.1. We provide support to the system administrator that you nominate. We do not provide support for all of your users. Support to your nominated system administrator includes assistance with ad hoc questions about the Managed Content Security service and change requests (as detailed below).
- 7.2. We monitor and manage the software (including upgrades) that is used for your Managed Content Security service.
- 7.3. We provide you with a monthly report for your Managed Content Security service. The report will detail viruses, spam and website activity that is screened or blocked by your Managed Content Security service.

## **8. Domain names**

- 8.1. If you apply for registration of a new domain name as part of your service under this section of Our Customer Terms then we will procure registration of that domain name with our nominated registrar or reseller. You may also apply to transfer your existing domain name to our nominated registrar or reseller.
- 8.2. We do not guarantee that you will be successful in your application to register or transfer the domain name.
- 8.3. If the application for your new domain name to our nominated registrar or reseller is successful we will provide you with the registry key or password to your domain name.
- 8.4. If your domain name registration lapses when you still have a service under this section of Our Customer Terms, we may remove your domain name records from our system and you will not be able to use that domain name for

your service. Your domain name will also be released by the registrar to be available for registration.

- 8.5. If you cancel your service under this section of Our Customer Terms and at the time of cancellation the registration period of your domain name has not yet expired, the domain name registration will continue for the remaining term of your domain name registration. You are responsible for ensuring that your domain name registration is renewed or transferred to another domain registrar or reseller. We will also cease domain name hosting for that domain from the time of cancellation of your service.
- 8.6. You agree to be bound by and will comply with the policies and terms and conditions applied by the relevant registrar (as applicable and as amended by the relevant registrar from time to time).
- 8.7. If your domain name is:
  - 8.7.1. a “.com” , “.net”, “.org” or other top level domain name (**TLD**), you agree to comply with the policies applicable to such domain names as issued by the Internet Corporation for Assigned Names and Numbers (**ICANN**) (as amended by ICANN from time to time); or
  - 8.7.2.a “.au” domain name (each a 2LD), you agree to be bound by the .au 2LD Domain Name Eligibility and Application Policy Rules issued by .au Domain Administration Limited (**auDA**) located at <http://www.auda.org.au/> (as amended by auDA from time to time).
- 8.8. You acknowledge that additional policies relating to your domain name may come into effect from time to time, and you agree to comply with such additional policies.
- 8.9. If there is a dispute regarding your domain name registration or in respect of your domain name after registration, you agree that your domain name will be subject to arbitration, suspension or cancellation in accordance with auDA or ICANN procedure, or by any registry administrator procedure approved by auDA or ICANN policy, relating to:
  - 8.9.1. the correction of mistakes by us or the registry administrator in registering the domain name; or
  - 8.9.2. the resolution of disputes concerning the domain name.
- 8.10. You agree that if changes or modifications are made to the auDA or ICANN procedures or registry administrator procedure and you continue to maintain



registration of your domain name after those changes or modifications become effective, you confirm your acceptance of those changes and modifications.

- 8.11. If there is a dispute regarding your domain name, you agree to submit to the jurisdiction of the courts as provided in the applicable procedures.
- 8.12. You can ask us to re-delegate your existing domain name to us by completing and submitting an application form. We re-delegate the following four Domain Name Server (DNS) parameters:
  - 8.12.1. the www DNS parameter;
  - 8.12.2. the mail DNS parameter;
  - 8.12.3. the FTP DNS parameter; and
  - 8.12.4. the shop DNS parameter, using the application form.

- 9. You must provide us with information we request to allow us to re-delegate your existing domain name to us, including notifying us of any additional records you may hold that are associated with your domain name.**
- 10. You must pay any registration or delegation charges to us in advance. We cannot register a domain name for you unless you pay for it in advance.**
- 11. We are not liable for any loss or damage resulting from the non-renewal of your domain name if you fail to provide us with consent to renew the domain name registration or you delay in providing us with such consent.**
- 12. You indemnify us against all claims arising out of the registration, use or renewal of your domain name, unless and to the extent that the claim arises out of our breach of this agreement, or our negligent act or omission.**

### **13. Take down notices and directions**

- 13.1. You must promptly notify us if you receive any take-down, service cessation or link deletion notices from the Australian Communication and Media Authority (or other regulatory authority), or directions from the Telecommunications Industry Ombudsman issued under the Mobile Premium Services Industry

Scheme, which relates to your hosted content. You must promptly comply with any such notices and directions.

- 13.2. We may immediately disable or suspend access by you or your customers to your hosted content by written notice to you if:
  - 13.2.1. you fail to comply with any of the take-down, service cessation or link deletion notices from the Australian Communication and Media Authority (or other regulatory authority) or directions from the Telecommunications Industry Ombudsman;
  - 13.2.2. we receive any take down, service cessation or link deletion notices from the Australian Communication and Media Authority (or other regulatory authority) or directions from the Telecommunications Industry Ombudsman which relates to your hosted content or any part of it; or
  - 13.2.3. we reasonably suspect that your hosted content or any part of it breaches any laws, regulations, determinations or industry codes applicable to your service or your hosted content or infringes the rights (including Intellectual Property Rights) of any person.

#### **14. Third Party Claims**

- 14.1. You indemnify us against all loss as a result of a third party claim that relates to your data or the use of your service.

# BVD Managed Services Service

## Terms

Managed Services are the supply, installation and ongoing management of hardware devices for use with Brennan Internet, IP & Data Communications or Co-location services.

### 1. Ownership of equipment

- 1.1. The Router, network termination devices and power supply units (and the power cable between them) belong to us.
- 1.2. All cabling and your equipment beyond the router is your responsibility.
- 1.3. Your obligations
  - 1.3.1. You agree:
    - 1.3.1.1. To keep the equipment in a safe and protected environment; and
    - 1.3.1.2. to keep the rental equipment within your control; and
    - 1.3.1.3. to only attach attachments to the rental equipment that meet Australian Communication Authority compliance standards; and
    - 1.3.1.4. not to deface, change, modify or repair the rental equipment; and
    - 1.3.1.5. to tell us immediately if the equipment does not work or becomes faulty; and
    - 1.3.1.6. to get our consent before any equipment is taken from the address shown in our records; and
    - 1.3.1.7. to return the rental equipment at your cost to us at one of our collection locations when the service is cancelled; and
    - 1.3.1.8. to return the equipment to us in good working order; and
    - 1.3.1.9. to tell us immediately if the equipment gets lost or stolen.
  - 1.3.2. If you refuse to return any rental equipment, or cannot (e.g., because it has been lost or stolen), we will charge you for a new replacement.

### 2. Infrastructure not included

We do not have to supply any of the following when we connect your new Service:

- 2.1. Cable from a fixed termination point to a moveable structure;
- 2.2. Cabling across, through or under a body of water or tidal land;

- 2.3. Clearing, digging and reinstatement of land required to install the lead-in cable along the chosen route on your premises; or
- 2.4. Any additional cabling or equipment required to reduce, eliminate or avoid a site hazard (such as a high voltage substation, a hazardous area or explosive atmosphere).

# Brennan Voice & Data Category

## Terms

### 1. Set up charges

We charge a set-up fee, unless otherwise agreed to on the Quote/Agreement document to provision and connect an Internet service.

### 2. Additional charges

- 2.1. We charge you for all costs and expenses we incur in connection with repairing, modifying or altering any of our property where those costs or expenses are caused by your equipment being connected to or interfering with our network or managed service tasks. \*This includes routers, switches and firewall rules.
- 2.2. We charge you the agreed amount of any work that we agree to perform and that we do not have to perform, under the Internet Category Terms section of our SFOA. If there is no agreed amount of any work, then we charge you for that work on a time and materials basis at our then current rates.
- 2.3. We reserve the right to charge you for all costs and expenses we incur for delayed installation activities due to site access unavailability.
- 2.4. Any installs or cutovers to be performed out of business hours or on weekends are subject to prior scheduled agreement and additional after-hours rates.

### 3. Assistance and safety precautions

You must provide us with all reasonable assistance (including access to your sites and systems) to enable us to meet our obligations. You must take all safety precautions reasonably necessary to ensure that we can safely and properly perform all work that we need to perform at your sites.

### 4. IP addresses

- 4.1. We provide you with IP address(s) for Internet service(s) as part of the monthly fee (agreed to on the Quote/Agreement).
- 4.2. We grant you a non-exclusive, non-transferable license to use any IP address that we provide to you in software and hardware devices nominated by us. The license is for the sole purpose of enabling those devices to be used with your Internet service(s).

- 4.3. When your license to use an IP address ends, you must immediately stop using the IP address and remove it from all software and hardware devices.

## **5. Carriage services**

- 5.1. We provide the Internet or Private Network service to you over a connecting carriage service, which we manage. A connecting carriage service is the telecommunications service between your premises and our point of presence.
- 5.2. The available connecting carriage services are:
  - 5.2.1. 3G
  - 5.2.2. ADSL;
  - 5.2.3. SHDSL;
  - 5.2.4. BDSL;
  - 5.2.5. Wireless and Satellite;
  - 5.2.6. Midband Ethernet (MBE);
  - 5.2.7. Frame Relay;
  - 5.2.8. Ethernet;
  - 5.2.9. Dark Fibre
  - 5.2.10. NBN; and
  - 5.2.11. any other connecting carriage service we approve.

## **6. Reconnection charge**

- 6.1. We can charge you a reconnection charge of a service if:
  - 6.1.1. You cancel the phone line that the service is provisioned on; or
  - 6.1.2. For material breach of the Standard Form of Agreement where we have suspended the service.
- 6.2. The reconnection charge will be equal to the standard set up fee of that service, listed on the Quote/Agreement.

## **7. Placing orders on hold**

- 7.1. If you place an order on hold while it is in our provisioning process, you automatically waive the 'Lead Time Guarantee' as set out in our Voice & Data Service Level Agreement.
- 7.2. You also waive the right to request for monetary compensation for missed Lead Times as set out in our Voice & Data Service Level Agreement.

## **8. Cabling**

- 8.1. We are not responsible for cabling of the building, Main Distribution Frame Room (MDF), cabling to the floor or within the customer premises' offices.
- 8.2. We reserve the right to charge you for any costs incurred for the provision of network extension cables or infrastructure.
- 8.3. We will tell you if a network extension charge is payable and obtain your approval before we start work.

## **9. Ownership of equipment**

- 9.1. The Router, network termination devices and power supply units (and the power cable between them) belong to us.
- 9.2. All cabling and your equipment beyond the router is your responsibility.
- 9.3. Your obligations
  - 9.3.1. You agree:
    - 9.3.1.1. to keep the equipment in a safe and protected environment; and
    - 9.3.1.2. to keep the rental equipment within your control; and
    - 9.3.1.3. to only attach attachments to the rental equipment that meet Australian Communication Authority compliance standards; and
    - 9.3.1.4. not to deface, change, modify or repair the rental equipment; and
    - 9.3.1.5. to tell us immediately if the equipment does not work or becomes faulty; and
    - 9.3.1.6. to get our consent before any equipment is taken from the address shown in our records; and
    - 9.3.1.7. to return the rental equipment to us at one of our collection locations when the service is cancelled; and
    - 9.3.1.8. to return the equipment to us in good working order; and
    - 9.3.1.9. to tell us immediately if the equipment gets lost or stolen.
  - 9.3.2. If you refuse to return any rental equipment, or cannot (eg, because it has been lost or stolen), we will charge you for the replacement of new equipment at current market RRP.

## **10. Infrastructure not included**

We do not have to supply any of the following when we connect your new Service:

- 10.1. Cable from a fixed termination point to a moveable structure;
- 10.2. Cabling across, through or under a body of water or tidal land;

- 10.3. Clearing, digging and reinstatement of land required to install the lead-in cable along the chosen route on your premises; or
- 10.4. Any additional cabling or equipment required to reduce, eliminate or avoid a site hazard (such as a high voltage substation, a hazardous area or explosive atmosphere).

## **11. Monthly access charges**

The Monthly Access Charge, as described on the Quote/Agreement, is billed per month in advance.

## **12. Commencement of charges**

- 12.1. We define a service as active when the Carrier Cutover has been completed.
- 12.2. We begin charging for services from date of Carrier Cutover.
- 12.3. If Carrier Cutover begins in the middle of a month, we will bill on a pro-rata day to day basis until the next full billing period commences.

## **13. Temporary disconnections**

- 13.1. Where you ask us to disconnect your Basic Telephone Service temporarily, we do not charge for the temporary disconnection.
- 13.2. We continue charging you the monthly access charges for the service while it is disconnected. You must also pay us the appropriate connection fee to reconnect it.

## **14. Relocation charges**

- 14.1. We will charge you for the relocation of a service.
- 14.2. You can relocate services from one business premises to another within the minimum contract term.
- 14.3. You must apply to us in writing to relocate your service and we will provide a cost per service to do so.
- 14.4. You may request for the current premises' service to be extended beyond the installation of the new premises' Service activation, in this case:
  - 14.4.1. We reserve the right to charge you if the current premises' Service is left active for longer than 2 weeks in addition to the Monthly Fee of the new premises.
  - 14.4.2. We reserve the right to continue charging on a monthly basis until the current premises' Service is deactivated.

## **15. Service provisioning**



- 15.1. Service Provisioning Cancellation is cancelling a service after it has been contractually agreed to, and is in provisioning process, but is not activated at the customers' premises.
- 15.2. We will charge you for the costs incurred by cancelling this service before Carrier Cutover/Activation has occurred. \*these vary depending on access technology and carrier

## **16. Cancellation fees**

- 16.1. The Service Provisioning cancellation fees and cancellation fees are a reasonable estimate of the loss that we are likely to suffer as a result of the early cancellation of an IP & Data Communications service.
- 16.2. We can charge you a cancellation fee, if you request to cancel the service after it has been provisioned, but before the end of the minimum term.
- 16.3. Early Termination Cancellation is calculated by the Monthly Fee (agreed to on the Quote/Agreement) multiplied by the number of months remaining on the contract.
- 16.4. You may request the cancellation of a service, submitted in writing to us, with 30 days' notice of your intent to cancel.
- 16.5. If your Minimum Term has been completed, you may request the cancellation of a service, submitted in writing to us, with 90 days' notice of your intent to cancel.

## **17. Faults**

- 17.1. Fault reporting
  - 17.1.1. You can report faults with your Service to us 24 hours a day by:
    - 17.1.1.1. Telephone Call
    - 17.1.1.2. Helpdesk Website
    - 17.1.1.3. Where you report a fault with a Basic Telephone Service after 5:00 pm, we treat this as if you had reported it the following working day.
- 17.2. Faults you cause
  - 17.2.1. We can charge you for repairing a fault, if it is caused by something you or someone else using your Basic Telephone Service do (or do not do) wilfully, recklessly or negligently.
  - 17.2.2. If you report a fault in your Service and ask us to come to your premises to repair it, and once at your premises we determine on reasonable grounds

that the fault is not in the Brennan or its providers network (for example, the fault may be in your equipment), we will charge you an incorrect callout charge.

### 17.3. Fault isolation assistance

17.3.1. We may require you to undergo basic remote isolation testing over the phone to assist us in isolating a fault before you can request our attendance at your premise or somewhere else to investigate a potential fault further. If you refuse to complete this basic testing, we will not be able to progress the fault further on the call. If you refuse to undergo basic remote isolation testing and request our attendance to site, you agree to pay a Service Callout Fee as quoted at this time or \$150, whichever is greater. These charges will be applied to your bill.

## 18. Restraints

- 18.1. Neither party may approach the Employees, Agents or Contractors of the other party to this Agreement, with an offer of employment during the term of this Agreement or for each of the following periods, 2 months, 3 months, 6 months and 12 months after its expiry or termination.
- 18.2. For the avoidance of doubt, nothing in this clause 18.1 prevents either party from employing an employee of the other party as a result of the employee responding to a public notice, in the absence of any solicitation however if this occurs then the employing party will pay a replacement recruitment fee to the other party of \$90,000 ex GST.

# Cloud Managed Network Devices

## Service Terms

Cloud Managed Network Devices is the supply and support of approved network devices for an agreed fixed contract period.

### 1. Cloud managed network device scope

- 1.1. The Cloud Managed Network Device agreement covers:
  - 1.1.1. services as described in the Order Form;
  - 1.1.2. services listed as "included" in the Support Services Schedule only
  - 1.1.3. service to a level that meets or exceeds the Service Level Agreement as described in the Order Form.
- 1.2. Services either not listed or tagged as "excluded" in the Support Services Schedule are Out of Scope of this agreement.

### 2. Terms and renewal

- 2.1. The Term for the service shall be for the duration as specified in this Cloud Managed Network Device Order Form
- 2.2. The Term for the service shall begin from the date of Service Commencement.
- 2.3. Additional services contracted during the Term will amend the contract end date of all Cloud Managed Network Devices being supplied by a pro rata amount based on the total amount of licensed devices under management agreement.
- 2.4. At any point in the contract term you may request in writing your contract end date
- 2.5. The pricing schedule is subject to review upon agreement renewal and will take into account contracted devices, device hardware and software cost variation and CPI increases.

### 3. Out of scope work

- 3.1. We may supply services outside of the Cloud Managed Network Devices Scope on a time and materials basis delivered via Brennan IT Service Pack agreements.

### 4. Fees

- 4.1. The monthly fees for services will be made up of all of the following:
  - 4.1.1. The Monthly Service Fee; less
  - 4.1.2. Any Service Level Rebates.
- 4.2. The Set Up Fee is payable as part of the first month invoice.
- 4.3. The Monthly Service Fee is payable monthly in advance upon Service Commencement.

## **5. Setup charges**

- 5.1. We charge a set up fee, unless otherwise agreed to on the Order Form to set-up the Cloud Managed Network Device service. This includes:
  - 5.1.1. Setup and configuration of the approved network devices as detailed in the Support Services Schedule
  - 5.1.2. On-site connection of the approved network devices (where specifically outlined in the Order Form)
  - 5.1.3. This Setup Fee does not include any physical cabling works required to deliver the service, or any installation or mounting of hardware

## **6. General terms**

- 6.1. You authorise us to install any remote management tools as we deem necessary to supply our services.
- 6.2. You authorise our access to your environment for the purpose of providing our services.
- 6.3. Should you request the supply of support services onsite but where we are capable of supplying the service via remote management, we will treat the request as Out of Scope work.
- 6.4. Brennan Voice and Data provide no warranty on the integrity of software released by vendors, including but not limited to patches, hotfixes, updates and device drivers. As such, Brennan Voice and Data are not liable for any damages caused by the application, automated or otherwise, of this software as part of our Managed Service. Any remedial work to resolve issues caused by the application of vendor released software is out of scope.
- 6.5. Brennan Voice and Data provide no warranty on the effectiveness of security products or service. Any remedial works for issues caused by virus or malware infections that were not captured by the security measures are considered out of scope.

- 6.6. Where a vendor or Brennan Voice and Data has stipulated a hardware and/or software compatibility list or configuration, the client must adhere to these guidelines. Any work arising from non-compliance with these guidelines will be considered as out of scope.
- 6.7. End of Life clause:
- 6.7.1. We are not required to provide support for hardware or software which has reached End of Life. Where we become aware that hardware or software has reached, or is imminently approaching End of Life, we will endeavour to notify you, however, we are not liable for any failure to do so. You must make your own enquiries to determine when hardware and software will reach, or may reach End of Life
- 6.7.2. "End of Life" means the manufacturer publicised end of life, or end of support period for either hardware or software

## **7. Ownership of equipment**

- 7.1. The equipment and all accessories supplied under this agreement remain the property of Brennan Voice and Data.
- 7.2. All cabling and equipment beyond our equipment remains your responsibility.
- 7.3. You agree to:
- 7.3.1. keep the equipment in a safe and protected environment;
- 7.3.2. and to keep the rental equipment within your control;
- 7.3.3. and to only attach attachments to the rental equipment that meet Australian Communication Authority compliance standards;
- 7.3.4. and not to deface, change, modify or repair the rental equipment;
- 7.3.5. and to tell us immediately if the equipment does not work or becomes faulty;
- 7.3.6. and to get our consent before any equipment is taken from the address shown in our records;
- 7.3.7. and to return the rental equipment to us at one of our collection locations when the service is cancelled;
- 7.3.8. and to return the equipment to us in good working order;
- 7.3.9. and to tell us immediately if the equipment gets lost or stolen.
- 7.4. If you refuse to return any rental equipment, or cannot (eg, because it has been lost or stolen), we will charge you for a new replacement.

brennan\_

# Contact

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