

## **Terms and Conditions for RockIT Broadband Satellite**

### **1. About the RockIT Service**

Thank you for becoming a registered subscriber to The *Two Wells Internet Service* RockIT Service. The RockIT service is our high-speed internet service. Our terms and conditions for the provision of RockIT are set out below.

These terms and conditions should be read in conjunction with specific conditions for each RockIT services subscriber plan as described on the *Two Wells Internet Service* home page. Certain promotional *Two Wells Internet Service* offers are subject to special terms and conditions, and these will be provided to you if you sign up for that promotion.

In these terms and conditions, “we”, “our” and “us” means The *Two Wells Internet Service* and “you” and “your” means the person contractually liable for the RockIT Services.

### **2. We will Provide**

We will provide the RockIT Services chosen by you on the following basis:

**High Speed Internet Access** -- High Speed access to the Internet and e-mail through our network. If your use of the Internet exceeds the parameters of the subscriber plan you select you must pay us the applicable surcharges.

**Technical Platform Support** -- 24-hour technical platform support, 7 days per week, is available by telephone subject to clause 16 of this Agreement. If an on site visit is required, we will use our best endeavours to send a technician to assess the problem within one week (depending on availability and your physical location).

**Customer Service** – available as described in Clause 8 of this Agreement.

### **3. Equipment Installation**

We will arrange, at your request, the delivery and installation of the RockIT Equipment obtained from us or our related bodies corporate, to your location. You must at your own expense, obtain in advance and maintain all necessary consents and approvals for the installation of the RockIT Equipment at your premises and pay for any alterations to your premises required for installation.

The installer arranged by us or our related body corporate will advise you what the best long-term position for quality of reception is for your location.

Obstructions may not be confined to your own property. Should you choose to have the RockIT Equipment positioned at a location other than the one recommended by us, you must pay any service-related charges for future adjustment.

The installer arranged by either us or our related body corporate will make all reasonable efforts to position or direct the RockIT Equipment to mitigate any adverse localised electrical or radio interference caused by other parties. If we cannot at the time of installation offer a satisfactory service (in our sole judgment) because of such third party interference we will not proceed with the installation.

The installer arranged by either us or on of our related bodies corporate may refuse to install the RockIT Equipment if the location is considered dangerous or presents undue risk to the installer or may create damage to the substrate to which the RockIT Equipment is to be attached or used to gain access to the installation location.

You must pay the installation fee based on the installation work undertaken. Installation fees are based on standard single level residential dwellings. Variation in installation fees may arise in the event of additional time and materials required to complete an installation, or where we are unable to supply an installer in your area. You will be notified prior to installation of any extra charges. The installation fees payable to us or one of our related bodies corporate are set out in the RockIT Agreement. Other fees may be payable by you in respect of installation but you acknowledge that such fees are subject to a separate agreement between you and the installer and you will not make any claim against us or one of our related bodies corporate in relation to these additional fees.

Care will be taken by our installers with respect to avoiding any property damage at installation. Neither we nor our contractors accept liability for any property damage where due care has been taken.

On removal of the RockIT Equipment, either at your request or due to failure to observe any clause in these terms and conditions, then any need for building remediation as a direct result of antennae installation or removal will be your responsibility and cost.

## **4. Invoicing for RockIT Services**

In return for access to our RockIT Services, you agree to pay us the relevant subscription and other charges described in Clause 5.

We will invoice you on or before the fifth day of each month. Payment will be due on the 10<sup>th</sup> day of the month of the invoice. If your account is not paid in full by the due date your account will be charged a late payment fee of 15% of the unpaid portion of your account. You acknowledge and that this is a genuine pre-estimate of the damage we will suffer as a result of your late payment and is not a penalty. Interest charges at the rate of 2% above the prime lending rate of Australia and New Zealand Banking Group Limited per annum may also apply on the balance of overdue accounts from the due date for payment until payment in full.

If all or part of your account is unpaid for a period of 2 months or more, your account may be closed and your details referred to our debt collection agency or credit reference agency without notice to you. We reserve the right to recover our legal and other costs resulting from collection of any amount owed by you.

Charges will be calculated by reference to data recorded or logged by us or our suppliers and such records will be conclusive evidence of your usage of any selected RockIT Services and charges payable by you.

## **5. RockIT Services Charges**

Subscription Fees -- payable monthly in advance for the selected RockIT services, whether the services are used by you or another person with or without your knowledge or consent.

You will be responsible for payment of any taxes, levies or other government imposts that we are required to pay in connection with the supply of goods or services to you under this Agreement. This may include, but not necessarily be limited to goods and services tax ("GST"). Each party agrees to do all things that may be necessary to assist the other party to claim any credit, rebate etc in relation to any amount of GST paid or payable in respect of a supply under this Agreement. All prices quoted in this Agreement are inclusive of GST.

## **6. Quality of RockIT Service**

We will make commercially reasonable efforts to make the RockIT Services you have subscribed to available to you continuously and, if the services cease, to restore those services as soon as reasonably possible.

Subject to clause 16 of this Agreement, the High Speed Internet service is available to you for a target of 24 hours a day (other than on a permanent connection basis) and, if the system malfunctions, we will endeavour to restore this service as soon as reasonably possible. If we are unable to provide or restore the service (even if the failure is our fault) we are not liable to you.

From time to time extreme weather conditions may cause loss of quality of reception. We do not accept any liability for this as it is characteristic of the current technology and frequencies used.

The reasons for these limits on our service levels are because we do not own or control all the facilities and communication lines necessary for access, and therefore cannot guarantee error free or uninterrupted service.

## **7. Refund Policy for RockIT Services**

At our discretion, if we consider that you have received poor service from us we may provide a credit to you. If you subsequently close your account permanently that credit will not be refunded to you. If an account is closed any credit balance not eligible for refunding will not be carried over upon the reopening of an account with us.

## **8. Customer Service**

If you:

- Experience technical difficulties with your RockIT Service connection
- Believe there is an error on your invoice
- Have any other questions, comments, or complaints

You may call 0885203375 and inform a Customer Service Representative of your difficulties. (Alternatively email [rockit@twpo.com.au](mailto:rockit@twpo.com.au)). We will attempt to resolve any problems as soon as practicable.

## **9. Your use of the RockIT Services**

You must comply, and ensure others comply with, all laws, regulations, codes, determinations or the requirements of government or statutory authorities when using the RockIT Services.

You will not decompile or reverse engineer any products provided to you under this Agreement.

If you run a mail server that is configured as an open relay then we reserve the right to block you from our mail server.

Excessive downloading can put a strain on our system and affect the service levels provided to other customers. If we feel (at our sole discretion) your use of the RockIT service is excessive we will contact you to discuss this. If usage cannot be kept to an acceptable level after discussion then account suspension may occur with no further liability to you or us in this regard.

## **10. Use of personal information**

(10) You authorise us: to:

- (a) the extent permitted by the Privacy Act 1988 (Cth) as amended, to collect, retain and use personal information, including the information contained in
  - (b) this Agreement or information obtained from a report about
  - (c) your consumer or commercial creditworthiness or financial capacity or both from a credit reporting agency or information from another credit provider for the following purposes:
    - (i) assessing your application for credit (whether it be for consumer credit or for commercial credit);
    - (ii) administering and financing, whether directly or indirectly, your contracts with us and enforcing our rights under these documents;
- b) provide that information to:
  - (i) our employees and agents and any other person in the ordinary course of business, for any of the above purposes;
  - (ii) to other credit providers for their similar purposes as above;
  - (iii) credit reporting agencies to obtain a credit report and allow the credit reporting agency to create or maintain a credit information file about you which file will contain limited information such as identity particulars e.g. name, address, date of birth, drivers licence number etc and limited credit information including the listing of loan repayments that are overdue by more than 60 days, and for which debt collection has started; and
- c) send details of our other products and services to you from time to time. You acknowledge that for the purposes of this clause information collected, retained and used by us may also be collected, retained and used by any financier or discounter of contracts to which you are a party.

## **11. Other things that we can do**

We are entitled to at anytime without prior notice or any liability to you to:

- a) alter the packages of RockIT Services offered by us, including but not limited to the terms and conditions of the subscriber plan you have selected in which case you may be required to select one of the new packages
- b) alter the mechanism by which our RockIT Services are transmitted or broadcast or the format of the RockIT signal.
- c) restrict any service in any other circumstances if we think it is reasonable or necessary. We will try and contact you before doing this. Normal charges will apply during the restriction of service.
- d) terminate any of the RockIT Services that you have subscribed for without notice or liability to you in the event of any failure by you to pay any moneys payable under the terms of this Agreement on the due date or in the event of any other breach of these terms and conditions by you, or you enter into any form of insolvency administration.
- e) refuse to give you a subscription to any service without giving a reason for such refusal.

Termination by us will be without prejudice to our other rights and remedies arising under this Agreement or at law.

- f) Without in any way limiting the provisions of this clause 11, suspend or disconnect your use or access to all or part of the RockIT service.

## **12. What happens on termination of the RockIT Services**

Upon termination or cancellation of this Agreement:

- (a) You must pay us the balance of any charges you owe us for the RockIT Services;
- (b) This clause and clauses 11, 14 and 15 of this Agreement will not merge but will survive for our benefit.

### **13. Communications and notices**

We may change or remove any of these terms and conditions at any time. These changes may include alterations to our pricing structure, or changes to the scope and nature of services provided. We will inform you by email or posting a message in the appropriate location on the system on the world wide web on our home page or any other appropriate means including message of the day (MOTD). Once we have posted the email or other message you are deemed to have received it, and if you have not notified us that you wish to terminate your subscription within 30 days or if you continue to use the services afterward 30 days, you are deemed to have accepted the change.

### **14. Limits on our liability**

By using our services you do so at your sole risk. We do not warrant that our service will be uninterrupted or error-free. We distribute our service on an "as is" basis without, to the extent permitted by law, warranties of any kind, either express or implied. In particular, we are not liable to you - whether in contract or tort or under any other legal principle - for any direct or indirect losses or damages of any kind. These damages include but are not limited to loss of business, profits, work stoppage, computer or software failure or malfunction or any other damage or loss. To the extent permitted by law, your exclusive remedy against us is to cancel your subscription.

To the extent we do have some liability under this clause 14, if permitted by law, our total liability to you or any person claiming through you for any cost, loss, liability or damage arising out of the failure of the RockIT Services due to our, or our agents, performance of, or failure to perform, our obligations under these terms and conditions and including as a result of our, or our agents, negligence, whether in contract, tort, statute or otherwise, is limited at our option to:

- a) in the case of goods, repairing or replacing the goods, or supplying equivalent goods, or paying the cost of doing any of these; or
- b) in the case of services, supplying the services again or paying the cost of doing so.

In addition, to the extent permitted by law, the following people have no liability to you for our services: our employees, contractors and representatives; any other network operators who use our network and allow us to use their networks, and their employees, contractors and representatives, and any person who provides any service which is part of our services, and their employees, contractors and representatives.

Where third party electrical or radio interference arises post installation, (for example from local cell phone towers or other wireless data or broadcast services) we do not accept liability for loss of reception but will use our best efforts to remedy the quality of reception if requested by you. Any costs for this remedial work will be to your account.

### **15. Intellectual Property Rights**

We or the relevant provider retain all intellectual property rights which exist in the RockIT Services, software, documentation, menus, visual displays, layout designs and know-how in the products and services we provide to you.

## **16. Force Majeure**

If we cannot perform our obligations under this Agreement by reason of act of God, inclement weather, act of State, riot, strike, boycott, embargo or any other circumstances beyond our reasonable control, we will not be liable to you and will endeavour to advise you of the existence of the circumstances and their expected duration. The performance of this Agreement will, to the extent that it is made impossible by such circumstances, be suspended until such circumstances cease to prevail.

## **17. Inconsistency**

To the extent that there is any inconsistency between these terms and conditions and the terms and the relevant RockIT services subscriber plan, the terms of the RockIT service subscriber plan will prevail.

## **18. Definitions**

“RockIT Equipment” means the equipment required to supply the RockIT services, and generally includes:

- a). all antenna, cabling and associated equipment needed to receive the signal;
- b). The smart card, “E-developments” or any services or products that are IP(Internet protocol) based or related-;
- c). Plus satellite dish and PC card.

“RockIT Services” means the high speed internet services, technical platform support and customer service.