

- (A) General Terms & Conditions
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(A) General Terms & Conditions

This agreement represents the complete agreement and understanding between MOTIV Communications, its affiliates and owners, and the account holder (hereinafter called the Customer) and supersedes any other written or oral agreement. MOTIV Communications may vary these terms and conditions and/or any prices, as well as change or discontinue services offered, at any time.

1. All individuals using the services of MOTIV Communications represent that they are eighteen (18) years of age or older or under the supervision of an adult.
2. The Customer understands that the Internet contains unedited material. MOTIV Communications accepts no responsibility for such material. Information transmitted through the Internet in general is not confidential or private. MOTIV Communications reserves the right to monitor any Customer's transmissions when deemed necessary for providing proper service and/or to protect the rights and property of MOTIV Communications. We will not disclose any information about the Customer unless required by court order, subpoena or other legal request, or upon the advice of counsel.
3. The Customer agrees to indemnify MOTIV Communications, its officers, employees, directors, shareholders and agents and other Customers from any and all claims, damages, expenses (including legal fees) and liabilities resultant from any and all use of the Customer's account whether authorised or not.
4. The right to use MOTIV Communications is not transferable. The Customer is responsible for the confidentiality of Customer's username and / or password. The Customer is permitted to one single login session at any time at one location. The Customer is responsible for all and any usage of their account.
5. Use of any Customer's account to violate the security of any computer, crack passwords or security encryption codes, or engage in any illegal activity is strictly prohibited.
6. The Customer is responsible for any and all fixed and accumulative charges for this account. The first month service fee (or other billing period selected) plus any setup fee is due upon account setup. Each month the account will be charged the standard access fee for the new month plus accumulated charges for the past month. Unused downloads do not accrue from one billing period to the next.
7. The Customer agrees to pay the full cost of installation or churn of the service being requested by the Customer and that this charge is not refundable on cancellation of the service.
8. Customers applying for a service under specific contract arrangements must abide by the contract terms. Any breach of this contract will mean the full amount of the contract is to be paid in full at the time of the contract breach.
9. Services provided by MOTIV Communications should not be used to send unsolicited advertising (SPAM) or promotional materials to other network users. Electronic mail may be used in the conduct of legitimate businesses. The Customer shall not run Maillist, Listserv or any other form of auto-responder from a user shell. The Customer shall not use services provided by MOTIV Communications to harass any individual. If MOTIV Communications becomes aware of possible violations, it will initiate an investigation. MOTIV Communications may suspend access to services in an attempt to prevent possible unauthorised activity. Confirmation of violations may result in cancellation of the account and/or criminal prosecution.
10. Direct Debit and Credit Card Customers agree to allow MOTIV Communications to bill such accounts on each successive billing date without obtaining the Customers authority or permission after the initial charge or if a signed authority is held by MOTIV Communications. A dishonour fee will be charged of \$25.00 for any payments that are dishonoured due to a payment being refused, rejected or insufficient funds.
11. Customers will accept that any account that is not paid by the due date will incur a late fee of \$11.00 Inc GST.
12. Customers are made aware that all monthly service charges are charged one (1) month in advance and the customer must agree that this amount is non refundable on cancellation of the service by the Customer. If a customer's service is cancelled by MOTIV Communications for any reason a pro-rata refund will be provided.
13. Customers are informed that invoicing of services with MOTIV Communications is performed on the first day (1st) of each month and are payable fourteen (14) days from the date of issue on the fourteenth day (14h) of each month. Direct Debits and Credit Cards are exercised on the fourteenth day (14th) of each month or the next business day. It is the customer's responsibility to ensure adequate funds are available for processing on the allocated day, in line with this agreement.
14. Email Delivery of monthly Invoice - Your monthly Invoice will be delivered to your nominated email address on the first day (1st) of each month or the next business day. Your monthly Invoice will also be available from the member's area, along with all prior Invoices for you to view. Invoices can be viewed using Acrobat Reader. If you do not have a copy of Acrobat Reader this can be downloaded from the following link <http://get.adobe.com/reader/> For Information on how to access your members area please contact MOTIV Communications during normal business hours on 1300 850 835 or email MOTIV at support@motivcom.com.au
15. For those customers that do not have an email address, MOTIV Communications provide email addresses to all MOTIV customers at no cost. If you wish to proceed with the free email address option, please contact MOTIV on 1300 850 835 during normal business hours or email us to support@motivcom.com.au. Our friendly staff will assist you in this process, including establishing this email address into your computer.
16. Should you elect to continue receiving your Invoice by mail, via Australia Post, an administration overhead, as per our Terms and Conditions, of \$5.50 (inc GST) per month will be charged against your account and displayed on your monthly Invoice.

17. Customers should be aware that Invoices are sent on the first day (1st) of each month or the next business day and are payable by the fourteenth day (14th) of each month. Email delivery of your MOTIV Communications Invoice will allow you to have your Invoice prior to payment being due every month.
18. The Customer must supply thirty (30) days notice to MOTIV Communications via a phone call to 1300 850 835 or email at support@motivcom.com.au to cancel services or alter the terms of their service.
19. It is the responsibility of the Customer to inform MOTIV Communications of any service being cancelled or transferred to another provider. If MOTIV Communications is not notified of a service cancellation or transfer of a service, MOTIV Communications cannot be held responsible for charges to the Customer's account for these services, until we are notified of the cancellation or transfer of the service by the Customer.
20. Customers must call MOTIV Communications on 1300 850 835 or email us at support@motivcom.com.au to make any modifications to their service or account.
21. Customers are informed that customer support is available Monday to Friday from 9am till 6pm, excluding public holidays.
22. Please be advised that all phone conversations with MOTIV Communications are recorded. If you do not wish your conversation to be recorded please advise the customer representative of this.
23. Complaints can be made to MOTIV Communications by either emailing complaints@MOTIVcom.com.au or by calling our office on 1300 850 835.
24. The Customer is responsible for all equipment and software necessary to access the MOTIV Communications service. Costs associated with hardware repair, software installation and/or configuration must be met by the Customer unless stated otherwise.
25. Customers may purchase hardware from MOTIV Communications. Any hardware purchased from MOTIV Communications is non refundable. A postage and handling charge is added to all hardware posted to customers. Any faulty hardware must be returned to MOTIV Communication at the cost of the customer and if the hardware is found not to be faulty the customer must accept postage and handling cost to have the equipment returned. If the item is found to be faulty, a replacement will be sent out at no cost, provided it is still under warranty. Hardware warranty period is one (1) year.
26. As the MOTIV Communications service is a shared resource the Customer agrees to show due consideration to all other Customers. Customers will abide by the MOTIV Communications Acceptable User Policy (AUP). Breaches to this policy will be regarded as unacceptable and may result in immediate account termination.
27. The Customer accepts that email virus scanning performed by MOTIV Communications cannot provide protection from viruses and Trojan software transmitted or installed by other means or not detected by current virus scanning technology. The Customer is ultimately responsible for protecting against such attacks.
28. Non Payment: Customers are informed that if an account falls overdue MOTIV Communications reserves the right to place a suspension on any services on the Customer's account. If the overdue amount is not paid within a further fourteen (14) days MOTIV will try and contact the customer to inform of the overdue amount and the pending cancellation of services on the account if not paid immediately. If after all attempts to contact the customer have failed and the overdue amount still remains MOTIV Communications will cancel the services on the customer's account and a reconnection cost will be required to be paid to MOTIV Communications by the Customer to have any services reconnected. All overdue payments not received by the next billing period (the start of the month) will be sent to our debt collection agency and may include a default notice placed on the Customer's credit file by the agency.
29. Relocation of Services: If a Customer requires a service to be relocated they must call MOTIV Communications on 1300 850 835 twenty (20) days prior to the service being required for relocation. Also please see Terms & Conditions part (B) 17 and (C) 12.
30. By using MOTIV Communications services, the Customer accepts the terms and conditions in this agreement and as amended from time to time.

If there is any part of this agreement that you do not understand please call MOTIV Communications on 1300 850 835 and we will be only too happy to explain. It is our commitment to provide Terms and Conditions that are clear and acceptable to the Customer before signing up for any service with MOTIV Communications.

(B) DSL Terms & Conditions

1. DSL stands for all ADSL services such as ADSL1, ADSL2 & ADSL2+
2. The Customer agrees that the speed and quality of Internet access on a service depends on a variety of varying conditions and circumstances, many of which are beyond the control of MOTIV Communications and Customers must agree not to hold MOTIV Communications responsible for the service not reaching a speed that is expected by a customer other than what we are able to deliver.
3. MOTIV Communications do not guarantee the connection speed of ADSL2+ services or ADSL1 8000kbps services. Any speeds obtained are a result of the quality of the phone line and the cable distance the service is from the exchange.

The speed at which data can travel along the copper lines is affected by a number of factors. Most significant is the length of copper wire from the local exchange. Although ADSL2+ and
12. MOTIV Communications offer support to all modems purchased from MOTIV Communication. MOTIV Communications will offer support to these models of modem even if purchased from another supplier but if a customer purchases a modem other than the type that is sold by MOTIV Communications it is the responsibility of the customer to know how to use and access these modems.
13. Customer agrees that any cancellation of a MOTIV Communications service will require thirty (30) days notice by contacting our office on 1300 850 835.
14. Customers will be aware that once monthly download quota allowances are exceeded, they will not be restored to full quota until the monthly anniversary date of the service becoming active with MOTIV Communications. Customers can purchase extra download quotas at any time. All unused download quota is not rolled over to the next month.
15. Customers are informed that a service is only supported to the

ADSL1 8000kbps is often available at distances of 3km or more from the exchange, the speed available reduces significantly according to distance (length of copper wire) from the exchange.

The data rates available to a particular ADSL customer are affected by many factors, and some by quite significant amounts. These include: -

- The length of copper wire from the exchange
- The number of, and type of, other services being used over copper pairs in the same cable by other customers.
- The configuration and line quality of the copper wire pair between the exchange and the customer's premises.
- Electrical interference from outside sources (Such as electric motors)
- The configuration of the copper wiring within the customer's premises.
- The software configuration and application on the customer's computer (in particular how it uses the uplink back to the exchange)
- The customer's hardware or modem
- The capacity of, load on, and access data rate of the destination host computer which the customer is accessing.

4. MOTIV Communications will work very hard to maintain quality and availability and provide Customers with service on a continuous basis. MOTIV Communications will use reasonable commercial endeavours to supply the service to a fair and reasonable standard. From time to time however, service may be slowed or interrupted completely due to various reasons: -

- Maintenance of equipment or anything else that relates to provision of services,
- Failure (hardware or software) of equipment in our network or that of our wholesaler or anything else that relates to provision of services,
- Temporary unavailability of services due to peak demand and network congestion in our network or that of our wholesaler.
- MOTIV Communications are not liable for any losses that may occur as a result of any unavailability of our services, or service degradation, at any time.
- MOTIV Communications may block Internet Ports or IP Addresses at any time without notice for network security reasons.
- Telecommunication services involve many facilities and networks that are operated by third parties beyond our control. MOTIV Communications are not responsible for the performance, reliability or standards of those facilities or networks.
- MOTIV Communications are never obliged to give a rebate or refund of any kind unless the law specifically requires it.
- MOTIV Communications services unless specified otherwise are Consumer Grade Service only and you must not use it for any business purposes. It is not fit to be used for any business purpose. If you choose to use it for business purposes you are in breach of these Terms & Conditions.

Customers must accept that MOTIV Communications will do all that is possible to provide the highest possible level of service at all times but do not guarantee the uptime of services at any time.

5. Modem connection speeds often do not reach the maximum stated by the modem manufacturer for a variety of reasons beyond the control of MOTIV Communications.
6. Customers requesting ULL (ULL stands for a PSTN and DSL service as a bundled service, PSTN stands for a normal land line service) bundled services must be aware when cancelling these service both PSTN and DSL components are cancelled, losing the phone number attached to the service.
7. MOTIV Communications will do all that is possible to make sure a service is delivered at the earliest possible time in accordance with the industry standard times for a particular service but the Customer is advised these delivery times are estimated and

modem and the first computer connected to the modem via Ethernet. We do NOT support the service if connected to a network. MOTIV Communications do NOT support MAC operating systems.

16. To make any changes to any current DSL service provided by MOTIV communications a Customer must call MOTIV Communications ten (10) days prior to the anniversary date of the service activation on the customer's account. Any modifications will be made prior to the anniversary date of the service and will be charged at the new rate on the next invoice.
17. Relocation of DSL services: A relocation of a DSL service will require the cancellation of a service at the current location and a new connection of a service at the new location. All normal setup/connection costs will apply. For services under contract the contract will be required to be paid in full on the current contract and a new contract may be requested to be entered into for the new connection. Please also see Terms & Conditions part (A) 29.
18. Customers are informed that MOTIV Communications sell and support specific bands of hardware including modems. This range of hardware including modems may change at times. MOTIV Communications provide support on all hardware sold by MOTIV Communications. If a customer wishes to provide their own hardware or modem this is acceptable but must understand that MOTIV Communications cannot provide support for any hardware that is not already sold or supported by MOTIV Communications. Hardware including modems other than the make and model supplied by MOTIV Communications is the responsibility of the customer and the customer must know how to use and access this equipment.
19. For anything not covered in part B of these terms & Conditions please refer to part A of the MOTIV Communications Terms & Conditions.

(C) Voice Terms & Conditions

1. Voice stands for all PSTN, ISDN, VoIP & Calling Card services provided by MOTIV Communications.
2. PSTN stands for a normal Land Line service, or Public Switched Telephone Network.
3. Customers must be aware that the cost of installation of a retail PSTN service can be anywhere from \$59.95 to \$299.95 and this cost will not be determined until the service has been completed by Telstra.
4. Customers must be aware that when a PSTN (Land Line) is requested with MOTIV Communications we cannot guarantee that this service will be able to carry DSL services.

There are many reasons why DSL may not be available on a PSTN service once completed. e.g. PG (Pair Gain) or Telstra RIM – this is a type of cabling used in connection of some PSTN services and although it does not support ADSL, Telstra still have these services in many areas.

Other reasons may include exchange at capacity, no ports available or service supplied by a sub exchange. MOTIV Communications has no control over these and the above reasons for DSL being unavailable at a customer's location.

5. For modifications or plan changes for Voice services the Customer must call MOTIV Communications on 1300 850 835. Any additions, modifications or changes to the cost of any Voice service will be charged to the Customer on the next invoice.
6. Customers must be aware that from the time a PSTN or any voice service becomes active with MOTIV Communications on a Customer's account, until it is either cancelled or transferred to another provider the Customer is liable for all charges to this service for the duration of the service being with MOTIV Communications.
7. VoIP services can be used with other providers, however MOTIV Communications will not guarantee the quality of the VoIP service when used with any provider other than MOTIV

there are many reasons a service can be delayed that is outside the control of MOTIV Communications.

8. No DSL service is guaranteed until it is an active service. The Customer will be aware that there are many reasons a DSL service request can be rejected right up until it has become active.
9. The Customer agrees to pay the full cost of installation or churn of the service being requested by the Customer and that this charge is not refundable on cancellation of the service.
10. Reporting a Fault: Customers may call MOTIV Communications on 1300 850 835 to request technical support for issues relating to your DSL service. For privacy and security reasons, you may be required to verify yourself as an authorised user before we can record your fault and assist you. Customers are requested to wait a reasonable period of time before calling us after the first call regarding a particular issue, to ensure that fault is not transient or self-correcting. A Customer must make reasonable efforts to solve their own support problems before calling our technical support. Customers must be in front of the computer connected directly to the DSL (ADSL1 or ADSL2+) modem when calling for technical support. The DSL modem used to connect to the Internet must be connected directly to a computer via an Ethernet cable. We do not offer support to modems connected via wireless.

Some faults require a technician to visit your premise. We will use all reasonable endeavours to resolve your fault without requiring a visit by a technician. Where a technician is required onsite and fails to find any fault within our network (for example, you have a faulty modem being the cause of the fault), then you will be charged a Call Out Fee to cover our cost of the technician's visit. If a fault was found within our network, then we will endeavour to fix the fault and you will not be charged an Incorrect Call Out Fee.

MOTIV Communications will make all attempts to resolve a customer's support issue but Customers must agree that at times a fault can be the result of faulty customer equipment or other issues relating to the customers computer. MOTIV Communications are not responsible for the Customers equipment including the Customers computer and Modem or Cabling. The Customer at times may require the assistance of a computer technician to resolve an issue not related to the service supplied by MOTIV Communication.

You must not use our technical support as a general computer support service or general knowledge base service.

You must treat our contact centre staff courteously at all times. If you become rude, sarcastic, threatening or abusive, we may choose to end the call or otherwise not respond to you until you contact us in an acceptable manner.

11. Faults logged with MOTIV Communications will be dealt with in the quickest possible time and customers kept informed at periods of not less than 48 business hours from the time the fault is logged. Customers must accept that at times a fault can take longer than expected to be resolved due to reasons out of the control of MOTIV Communications and will not hold MOTIV Communications responsible for any down time of the service during this time.

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8. DID's (Direct In Dial) Numbers: Customers are informed that DID's for VoIP services are only currently available for the major capital cities of Sydney, Melbourne & Brisbane. These DID's can be allocated to VoIP services for Customers outside these location but must be aware that calling these services outside these areas will result in the caller paying STD or long distance call charges.
9. Land Line (PSTN) services: Customers are informed and made aware that all Land Line plans have a base line rental charge and unless stated all calls made using this service are charged at the stated amount in addition to the line rental.
10. Customers must be aware that call rates nationally and internationally can vary without notice. For current pricing of all call rates for Landline, VoIP and Calling Cards please call us on 1300 850 835 during normal business hours and we would be happy to provide the current rate for the destination you wish to call.
11. Mobile Services: Customers are informed and made aware that all mobile plans with MOTIV Communications have a base charge and that calls are charged at the stated amount in addition to this base charge. Unless a plan is stated to be a capped plan the plan will have extra cost associated to it for all calls made using the service.
12. Relocation of Voice services: A relocation of a Voice (PSTN or ISDN) service will require the cancellation/disconnection of a service at the current location and a new connection of a service at the new location. All normal setup/connection costs will apply. For services under contract the contract will be required to be paid in full on the current contract and a new contract maybe requested to be entered into for the new connection. Please also see Terms & Conditions part (A) 29.
13. Logging PSTN & ISDN Faults: Customers can log faults for PSTN or ISDN services with MOTIV Communications by calling our office on 1300 850 835 between 9am and 6pm Monday to Friday and must be aware that when a fault is logged with MOTIV Communications the customer must accept an incorrect callout fee of \$105.00 ex GST if the fault is determined to be with the customer's equipment. If this is not accepted we are unable to log a fault on the Customers service.
14. For anything not covered in part C of these terms & Conditions please refer to part A of the MOTIV Communications Terms & Conditions

Acceptable Use Policy

1. INTRODUCTION

- 1.1 This Acceptable Use Policy applies to your use of the MOTIV Communication Service ("the Service").
- 1.2 This Acceptable Use Policy forms part of your agreement with MOTIV Communications for the Service.
- 1.3 MOTIV Communications may change this Acceptable Use Policy as set out in the Terms and Conditions for the Service.

2. GENERAL OBLIGATIONS

- 2.1 You must use the Service in a responsible manner, taking into account the effects your use of the Service may have on other users and the network.
- 2.2 You must not use the Service, or allow anyone else to use the Service:
 - (a) for any unlawful, illegal, malicious or improper purpose;
 - (b) to knowingly transmit a computer virus or other malicious computer program;
 - (c) in any way which interferes with its availability for other users or otherwise interferes in the proper operation of the Service;
 - (d) to access or damage another's computer system without permission;
 - (e) to infringe other's intellectual property rights;
 - (f) to disclose private or confidential information of another;
 - (g) to store, publish, display, distribute or post material that is obscene, offensive, defamatory, abusive or that violates any law or regulation;
 - (h) to enable a minor to access material inappropriate for a minor;
 - (i) to harass or menace any person;
 - (j) to conduct or promote a business that is illegal;
 - (k) to breach any laws or infringe any third party rights (including without limitation, copyright) or to breach any standards, content requirements or codes promulgated by any relevant authority or industry body; or
 - (l) to attempt to do any of the foregoing.
- 2.3 You must not resell the Service or any of its components or content provided via the Service, unless written permission is provided by MOTIV Communications.
- 2.4 While using the Service, you must not impersonate another person.

3. EMAIL

- 3.1 In addition, in relation to email, you must not use the Service to:
 - (a) send bulk unsolicited email to others;
 - (b) send email that hides or obscures the source of the email you send, that contains invalid or forged headers or domain names or deceptive addressing;
 - (c) receive responses from bulk unsolicited email where the original was distributed by you, even if not via the Service;
 - (d) relay email from a third party's mail server without permission;
 - (e) collect or harvest screen names or email addresses of others for the purpose of sending unsolicited emails or for exchange;
 - (f) send large or numerous emails with the purpose of disrupting another's computer or account;
 - (g) send email that may damage or affect the performance of the email recipient's computer; or
 - (h) Persistently send email without reasonable cause or for the purpose of causing annoyance, inconvenience or needless anxiety to any person.

4. USE OF THE SERVICE

- 4.1 You must not use the Service to engage in misleading or deceptive marketing practices, or to conduct, or as part of, a business that is illegal.
- 4.2 You may connect a local area network to the Service. Responsibility for installation and configuration of the network is entirely yours.
- 4.3 Where the Service offering does not provide for permanent connection you must not use software or other means to reconnect after automated disconnection. Breaches of this clause will result in immediate account suspension.