



Genesystel Business  
**Addendum to Genesystel Service Agreement**

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## **NBN Addendum to Genesystel Service Agreement (Genesystel Business Solutions)**

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This addendum applies if you order a Service which provides access via NBN Co's national broadband network. The Service Agreement and the terms of each Service Schedule applicable to the Services ordered by You also apply.

This addendum forms part of the Service Agreement between Genesystel and You and cannot be used as a stand-alone agreement. To the extent that there is any inconsistency between the terms of this addendum and the Service Agreement or a Service Schedule, then the terms of this addendum will prevail.

Any terms defined in the Service Agreement have the same meaning in this addendum, unless expressly stated otherwise.

### **Additional Terms and Conditions for National Broadband Services**

#### **1. Supply**

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##### **1.1 Amendment of the Service Agreement**

Without limiting the Service Agreement, We may amend the terms of the Service Agreement as it relates to the Service by giving You notice if We consider that such amendments are required as a result of any change to the arrangements between Genesystel and its Related Bodies Corporate, a supplier or other third party. We will provide You with as much written notice of any such change as is reasonably practical in the circumstances.

##### **1.2 Termination**

- If:
- (a) We are unable to supply, or continue to supply, You with the Service due to the cancellation, suspension or termination of any agreement with Our suppliers, for whatever reason; or
  - (b) We are unable to supply, or continue to supply, You with the Service for whatever reason (for example, due to geographical coverage, product withdrawal, capacity or technical capability limitations),

then We may in Our absolute discretion, upon giving You as much notice as is reasonably possible in the circumstances, cease, limit or suspend the supply of the Service temporarily or permanently or terminate the relevant Service Schedule(s) and/or any Order(s) for Service, as applicable.

## 2. Financial management

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### 2.1 Billing disputes

If you consider there is a mistake in any invoice, You must notify Us within 6 months of the date of the relevant invoice with full details. We will investigate the matter and report back to You as soon as practicable. If the matter cannot be resolved, the dispute procedure under the Service Agreement must be followed. If We have made a mistake, We will adjust a later invoice or issue a credit note.

## 3. Operational management

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### 3.1 Access

(a) You consent to Us and Our suppliers (and our respective Personnel) entering any premises owned, controlled or occupied by You or any of Your Related Bodies Corporate at which the Service will be provided, and doing anything that is necessary at that premises in connection with:

- (i) the installation and supply of the Service;
- (ii) the delivery, installation, connection, inspection, modification, replacement, maintenance, repair, servicing, disconnection or removal of any Genesystel Equipment,

and you agree to give Us and Our suppliers safe and timely access to such premises for so long as You or Your Related Body Corporate (as the case may be) own, control or occupy that premises.

(b) You agree to take all reasonable steps to assist Our suppliers to deliver, install and connect the Service and equipment to Your premises. If the unconditioned local loop service (ULLS) in respect of Your premises needs to be disconnected when the Service is installed:

- (i) You consent to such disconnection; and
- (ii) You acknowledge that, following such disconnection, there will be an outage to carriage services on the ULLS until the ULLS is reinstated or replaced.

### 3.2 Operation of networks, systems, equipment and facilities

You must ensure that You and Your Personnel do not, in connection with the Service damage, threaten, interfere with or degrade or cause the deterioration of the operation or performance of:

- (a) Our Network;
- (b) the supply of any products or services to Us or any other person; or

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- (c) any other person's network, systems, equipment or facilities, including through the use of Your networks, systems, equipment or facilities.

### **3.3 Compatibility**

You must ensure that Your networks, systems, equipment and facilities are Compatible.

### **3.4 Connections to Our Network**

- (a) You must ensure that any connection made and maintained by You or on Your behalf to Our Network is made and maintained in accordance with the Service Agreement and all applicable laws.
- (b) You must notify Us (before We connect the Service) whether You receive any priority assistance service, medical alert service, alarm service or any other service with similar service levels.

### **3.5 Disconnections from Our Network**

You must immediately, upon becoming aware of an occurrence described in this clause 3.5, disconnect or deactivate:

- (a) any networks, systems, equipment or facilities owned or operated by You that are:
  - (i) damaging, interfering with, or degrading or deteriorating the operation or performance of Our Network or the supply of products or services to Us or any other customer of Our suppliers; or
  - (ii) incompatible with Our Network or in order for Us to comply with the terms of supply by a third party; and
- (b) any connections referred to in clause 3.4 that are not made and maintained in accordance with the Service Agreement and all applicable laws.

### **3.6 Your Equipment**

You must ensure that any equipment used by You in connection with the Service or Our Network has all necessary regulatory approvals, the uses to which such Equipment is put are not prohibited by any Regulator and comply with the Service Agreement and all applicable laws, and is maintained in good repair and working condition.

### **3.7 Genesystel Equipment**

- (a) You must comply, and ensure compliance by Your Personnel, with the terms of use of any Genesystel Equipment, as notified by Us or Our agents from time to time.
- (b) If You fail to disconnect and return Genesystel Equipment within 20 Business Days of being required to do so, then We, or Our agent, may disconnect and recover that equipment.

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## 3.8 Our right to disconnect

If You fail to comply with an obligation to disconnect, remove or return equipment in accordance with the Service Agreement, or We have a right to do so at law, then:

- (a) We, or Our agent, may disconnect and/or remove that equipment or other items or connections; and
- (b) You are deemed to have consented to and approved of Us (or Our agent, as the case may be) disconnecting and/or removing that equipment or other items or connections.

## 3.9 Your details

- (a) We may request that You provide Us with information about You (**Your Details**) if such information is necessary for Us to provide the Service to You or to perform our obligations or exercise our rights under the Service Agreement and we cannot otherwise obtain that information within a reasonable period of time.
- (b) If we make a request pursuant to clause 3.9(a), You must, as soon as reasonably practical:
  - (i) provide Your Details to Us; and
  - (ii) obtain all necessary consents, give all necessary notifications required to ensure that We (and Our suppliers) are able to process and use Your Details.

You must ensure that such consents and notifications are obtained before providing Your Details to Us.

- (c) You must use Your reasonable endeavours to ensure that Your Details provided to Us are complete, accurate and up to date.
- (d) You agree that We may disclose Your Details and/or information relating to the ordering or provision of the Service to You, to a third party for purposes connected with:
  - (i) the disconnection of premises from that party's network; or
  - (ii) access to or ownership of that party's network,subject to ensuring that the person to whom the proposed disclosure is made is subject to an obligation to keep the information confidential.

## 4. Risk management

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### 4.1 Exclusion of liability

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To the extent permitted by law, We exclude all liability for any and all Losses suffered or incurred by You in connection with the Service to the extent such Losses are caused or contributed to by:

- (a) any and all claims brought against You by a third party to whom You provide products or services under a contract to the extent that that liability could have been lawfully excluded, restricted or limited under that contract;
- (b) the acts or omissions of any third party, including the suppliers which have been engaged by Us or Our Related Bodies Corporate for the purpose of supplying or maintaining the Service; or
- (b) any Customer Event.

## 4.2 Expeditious claim initiation

Where You become aware of an event that may give rise to You making a claim in respect of the Service, You must use Your reasonable endeavours to make that claim (if any) within 12 months of:

- (a) the date on which You first became aware or ought reasonably to have been aware of the event giving rise to the claim; and
- (b) in respect of a third party claim or Loss, the date on which You first became aware or ought reasonably to have been aware of the claim or Loss by the relevant third party.

## 4.3 Indemnities

- (a) You must pay Us on demand an amount equal to all Losses suffered or incurred by Us arising from or in connection with the death or personal injury of any person to the extent that is caused or contributed to by:
  - (i) any wilful, unlawful or negligent act or omission by You, Your Related Bodies Corporate or any of your respective Personnel or third party suppliers; or
  - (ii) Your networks, equipment, systems or facilities, in connection with the Service.
- (b) You must pay Us on demand an amount equal to all Losses suffered or incurred by Us, Our Related Bodies Corporate or our respective Personnel arising from or in connection with any:
  - (i) damage to, or loss of, Our tangible property and/or the tangible property of any third party;
  - (ii) disruption of, interference with or deterioration or degradation of the normal operation or performance of the Service or Our Network; or

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- (iii) interruption of access to and use of the Service,  
to the extent that such Losses are caused or contributed to by You, Your Related Bodies Corporate or any of your respective Personnel or third party suppliers to You in connection with the Service.
- (c) You must pay Us on demand an amount equal to all Losses suffered or incurred by Us, Our Related Bodies Corporate or our respective Personnel arising from or in connection with any Claim by a third party against Us to the extent that the Claim arises from or in connection with any:
  - (i) breach of the Service Agreement by You; or
  - (ii) any wilful, unlawful or negligent act or omission by You, Your Related Bodies Corporate or any of your respective Personnel or third party suppliers arising from or in connection with the Service.
- (d) You must pay Us on demand an amount equal to all Losses suffered or incurred by Us, Our Related Bodies Corporate or our respective Personnel arising from or in connection with:
  - (i) the reproduction, broadcast, use, transmission, communication or making available of any material by You or Your Related Bodies Corporate using the Service; and
  - (ii) any breach of a person's rights or defamation of a person (or allegation of such a breach or defamation) involving use of the Service.
- (e) You must pay Us on demand an amount equal to all Losses suffered or incurred by Us, Our Related Bodies Corporate or our respective Personnel arising from or in connection with the reasonable exercise by Us of our rights in clauses 3.7(b) and 3.8.
- (f) The limitations of liability imposed by the Service Agreement do not apply to Your liability under the indemnities provided in this clause 4.3.

#### **4.4 No claims against certain persons**

- (a) To the maximum extent permitted by law, all liability of Our suppliers, their Related Bodies Corporate and each of their respective Personnel arising from or in connection with the Service is excluded.
- (b) You must not make any claim against Our suppliers, their Related Bodies Corporate or any of their respective Personnel arising from or in connection with the Service.

#### **4.5 Third party benefit**

You acknowledge and agree that the exclusion in clause 4.4(a) and the claims bar in clause 4.4(b) are given for the benefit of Our suppliers, their Related Bodies Corporate and

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their respective Personnel and are held by Us in trust for, and are enforceable by Us on behalf of Our suppliers, their Related Bodies Corporate and their respective Personnel, notwithstanding that neither Our suppliers nor their Related Bodies Corporate nor their Personnel are a party to the Service Agreement.

## **4.6 Acknowledgements regarding the Service**

You acknowledge that:

- (a) Our suppliers are not providing You with any products or services;
- (b) Our suppliers do not have a contractual relationship with You in regards to the supply of the Service; and
- (b) the Service requires mains power to operate in the normal course.

## **5. Disconnection and Removal of Equipment**

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### **5.1 Disconnection from Our Network**

Within 40 Business Days (or such other period that may be agreed) after the effective date of expiry or termination, You must:

- (a) disconnect, or procure the disconnection of, any connections made by You or on Your behalf to Our Network; and
- (b) comply with any reasonable instructions given by Us or Our suppliers in connection with such work.

### **5.2 Removal of Equipment**

- (a) Within 40 Business Days (or such other period that may be agreed) after the effective date of expiry or termination, You must:
  - (i) remove all equipment and other items owned or controlled by You from any property or facilities owned by Us or Our suppliers; and
  - (ii) comply with any reasonable instructions given by Us or Our suppliers in connection with such work.
- (b) If You fail to remove any such equipment or other items in accordance with clause 5.2(a), then We (or Our agents) may remove such equipment or items by giving You at least 3 Business Days' notice of Our intention to do so.
- (c) If We remove any such equipment and other items pursuant to clause 5.2(b), then You must reimburse Us for all costs and expenses reasonably incurred by Us in removing such equipment and other items.



## 6. Definitions

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In this addendum, unless the context requires otherwise:

**Genesystel Equipment** means any equipment owned, operated or controlled by Us or Our suppliers:

- (a) that is provided to You for use in connection with the Services, other than equipment provided for outright sale; and
- (b) to which You are granted access as part of, or in connection with, the Services.

**Compatible** means capable of orderly, efficient integration and operation with Our Network, with no modification or conversion required.

**Customer Event** means:

- (a) any act or omission by You other than in accordance with the Service Agreement or that is otherwise unlawful; or
- (b) any event or circumstance to the extent caused or contributed to by Your network, systems, equipment or facilities.

**NBN Co** means NBN Co Limited (ABN 86 136 533 741) of Level 11, 100 Arthur Street, North Sydney 2060.

**Our Network** means the telecommunications network and facilities used by Us, Our Related Bodies Corporate and Our suppliers (including NBN Co) to provide the Service.

**Personnel** means, in relation to a person or entity, that person's or entities' officers, employees, agents, contractors and consultants.

**Regulator** means, as the context requires, the Australian Competition and Consumer Commission, the Australian Communications and Media Authority and any other government or statutory body or authority.

**Service Agreement** means either:

- (a) where a written and signed service agreement between the You and Us exists, that service agreement; or
- (b) otherwise, the current Standard Service Agreement, a copy of which is available at <http://www.genesystel.com.au/>.