

GOLDEN IT TERMS AND CONDITIONS

This agreement is made on the date specified on the application form between Golden IT Pty Ltd and the Customer specified in the WireFreeBroadBand Application Form,

Definitions

- 1.1 'Agreement' means these Terms and Conditions together with the WireFreeBroadBand application form overleaf;
- 1.2 'Acceptable Use Policy' means the conditions of use applicable to the service as published by Golden IT from time to time;
- 1.3 'Access period' means a renewable period of one (1) calendar year;
- 1.4 'Customer' means the person or corporation as set out in the WireFreeBroadBand application form overleaf;
- 1.5 'Internet' means the worldwide connection of computer networks providing for the transmittal of electronic mail, on-line information, information retrieval and file transfer protocol;
- 1.6 'Price' means the charges payable by the Customer to Golden IT pursuant to this Agreement as set out in the WireFreeBroadband application form overleaf;
- 1.7 'Service' means interactive dial-up access/permanent connection access [one or the other] to Golden IT's connection to the Internet, the provision of World Wide Web data and the incidental storage of data as set out in the WireFreeBroadBand application form;
- 1.8 'World Wide Web' means a method of representing and obtaining graphical data and linking data items used by Internet users.
- 1.9 'Golden IT Network' means any equipment owned, leased or controlled by Golden IT used for the purpose of storing, monitoring, routing, receiving or transmitting data.
- 1.10 'Customer Premises Equipment or CPE' means equipment used to interface the Customers Personal Computer and the Golden IT Network.

2. Access period

- 2.1 The service shall be provided by Golden IT to the Customer from the date of this agreement for the access period.
- 2.2 This agreement may be renewed (renewal) for subsequent periods of twelve (12) months, subject to approval by Golden IT.
- 2.3 Renewal of this agreement for a subsequent period may involve an adjustment to the charges as a condition of Golden IT providing its consent to renewal.

3. Provision of service

- 3.1 Golden IT shall provide the Customer with the Service including the installation of such equipment as is necessary to provide the Service by such means as Golden IT may determine.
- 3.2 Golden IT shall provide the service on a continuous basis during the term of this Agreement. Golden IT will inform the Customer if the service is unavailable for access by the Customer due to maintenance or any other foreseeable factor.
- 3.3 Golden IT shall provide the Customer with all identification and login information required for connection to the service.
- 3.4 Golden IT reserves the right to add to, alter or remove services upon giving 30 days notice to the Customer of that addition, alteration or removal. Notice shall be deemed to be given upon notification being posted to the Golden IT website.
- 3.5 Golden IT reserves the right to traffic shape in order to preserve the integrity of the service.
- 3.6 A one year contract applies to all connections; All equipment remains property of Golden IT

4. Customer obligations

- 4.1 The Customer must provide its own access facilities.
- 4.2 The Customer is responsible for maintaining the secrecy and confidentiality of all identification and login information required by the Customer to access the service.
- 4.3 The Customer agrees not to disclose to any other person, corporation, entity or organization any identification or login information, whether in use or not, or any other confidential information relating to the service of Golden IT.
- 4.4 The Customer is liable for all fees resulting from use of the service accessed through the Customer's identification or login information, whether authorized by the Customer or not.
- 4.5 An invoice raised by Golden IT shall be deemed to be correct and prima facie evidence of all charges contained therein.
- 4.6 The Customer must not obtain third party data from a source other than Golden IT while using any part of the Golden IT Network.
- 4.7 The Customer must allow external access to the Customer premises from time to time during the course of the subscription to survey, install, adjust, modify, replace or retrieve Customer Premises Equipment or the equipment of Golden IT.
- 4.8 The Customer must allow Golden IT to install software on the Customers computer and connect the computer to the external Customer Premises equipment for the purpose of accessing the Service.
- 4.9 The Customer is liable for the cost of replacement of Customer Premises Equipment where the equipment has been damaged, stolen or destroyed.

5. Use of the service

- 5.1 The Customer shall comply with all reasonable directions by Golden IT in relation to the access and use of the service.
- 5.2 Throughout the access period and any renewal, the Customer shall comply with the Acceptable Use Policy.
- 5.3 The Customer warrants that in accessing and using the service it will only use software that it is legally entitled to use.
- 5.4 The Customer acknowledges that Golden IT does not and cannot in any way supervise, edit or control the content and form of any information or data accessed through the service and Golden IT shall not be held responsible in any way for any content or information accessed via the service.
- 5.5 Golden IT disclaims all or any liability for any material on the Internet that the Customer finds offensive, upsetting, defamatory or personally offensive.
- 5.6 The Customer shall refrain from disruptive activities which may include, but are not limited to, the circulation of any unsolicited publicity or advertising material, propagation of computer worms and viruses, use of the service to gain unauthorized access to any other computer system, the sending of harassing, obscene, offensive or threatening electronic mail, forgery of electronic mail and the placement or transmission or storage of any defamatory material on the Internet.
- 5.7 The Customer will not access, nor permit any other party to access, the service for any purpose or activity of an illegal or fraudulent nature.
- 5.8 The Customer will not reproduce, distribute, transmit, publish, copy, transfer or commercially exploit any information accessed through or received from the service that would infringe the intellectual property right of any person.

5.9 The Customer is responsible for preparing and maintaining sufficient back-up files and data storage capacity for all Customer data including electronic messages.

5.10 The Customer acknowledges that the product and service provided by Golden IT is a domestic use product. Golden IT will not prevent commercial use of the product, however provides no warranty as to the quality of the service for commercial use.

5.11 Golden IT has no responsibility to provide training in the use of the service pursuant to this agreement.

6. Charges

The Customer shall pay the Price at the rate and in the manner specified in the Golden IT Application Form and in the name set out in the WireFreeBroadBand Application Form.

7. Indemnity

7.1 The Customer releases and indemnifies Golden IT, its servants and agents from and against all actions, claims and demands which may be instituted against Golden IT arising out of a breach of this Agreement by the Customer or of any other person for whose acts or omissions the Customer is vicariously liable.

7.2 Golden IT will not be responsible for failure to perform its obligations due to force majeure, including without limitation, fires, floods, lightning, acts of terrorism, riots, labor disputes, transportation delays, shortage of labor, fuel, power, materials equipment, or any cause beyond the reasonable control of Golden IT. Provided, however, in the event of a force majeure that shall continue for a period of at least three months, Golden IT may give notice of immediate termination of this Agreement, without any liability to Golden IT as a result.

7.3 Meteorological conditions and other forms of interference may diminish the quality of Internet access via wireless. Golden IT has no control over such events and whilst it will use all reasonable endeavors to reduce the consequences of such events it must be acknowledged that it has no control over them and cannot be responsible for any consequences. In the event that interference temporarily diminishes data transmission to a point where the access is unusable, Golden IT will, where possible, make 56k dial-up access ports available to the Customer during the period of interruption. The Customer will bear the costs of this temporary alternative service.

8. Implied terms

8.1 Subject to sub clause 8.2, any condition or warranty that would otherwise be implied in this agreement is hereby excluded.

8.2 Where legislation implies in this agreement any condition or warranty, and that legislation avoids or prohibits provisions in a contract excluding or modifying the application of or exercise of or liability under such condition or warranty, the condition or warranty shall be deemed to be included in this agreement. However, where legislation permits, the liability of Golden IT for any breach of such condition or warranty shall be limited, at the option of Golden IT, to one or more of the following:

8.2.1 If the breach relates to goods;

8.2.1.1 The replacement of the goods or the supply of equivalent goods;

8.2.1.2 The repair of such goods;

8.2.1.3 The payment of the cost of replacing the goods or of acquiring equivalent goods; or

8.2.1.4 The payment of the cost of having the goods repaired.

8.2.2 If the breach relates to services:

8.2.2.1 The supplying of the services again; or

8.2.2.2 The payment of the cost of having the services supplied again.

9. Liability of Golden IT

Subject to clause 8 above, Golden IT shall be under no liability to the Customer in respect of any loss or damage (including consequential loss or damage) which may be suffered or incurred or which may arise directly or indirectly in respect of goods supplied or the provision of the service pursuant to this Agreement or in respect of a failure or omission on the part of Golden IT to comply with its obligations under this Agreement.

10. Termination

10.1 For the purpose of this agreement, the following are terminating events -

10.1.1 The breach or threatened breach by the Customer of any of its material obligations under this agreement;

10.1.2 The appointment of any type of insolvency administrator in respect of the property or affairs of the Customer;

10.1.3 The entry or proposed entry by the Customer into any scheme, composition or arrangement with any of its creditors;

10.1.4 The permanent discontinuance of use of the service by the Customer;

10.1.5 The merger with or the takeover of either party by another person;

10.1.6 Any event described in this agreement as a terminating event; or

10.2 The service may be terminated immediately by Golden IT on the happening of a terminating event.

10.3 The Customer shall immediately on termination return to Golden IT all equipment and copies of all documents in the possession of the Customer relating to the service and Golden IT.

10.4 Any termination of the license shall not affect any accrued rights or liabilities of either party, nor shall it affect any provision of this agreement that is expressly or by implication intended to continue in force after such termination.

11. Entire agreement

This agreement supersedes all prior agreements, arrangements and undertakings between the parties and constitutes the entire agreement between the parties relating to the service. No addition to or modification of any provision of this agreement shall be binding upon the parties unless made by written instrument signed by a duly authorized representative of the party.

12. Law

This agreement shall be governed by and construed in accordance with the laws for the time being in force in the State of Victoria, Australia and the parties agree to submit to the jurisdiction of the courts and tribunals of that State.

13. Waiver

No forbearance, delay or indulgence by a party in enforcing the provisions of this agreement shall prejudice or restrict the rights of that party, nor shall any waiver of those rights operate as a waiver of any subsequent breach.

14. Dispute resolution

Any dispute or difference arising in connection with this agreement shall be submitted to arbitration in accordance with, and subject to, the Rules for the Conduct of Commercial Arbitrations of the Institute of Arbitrators, Australia. During such arbitration, a duly qualified legal practitioner may represent both parties.

Name: _____ (Please print) Signature: _____ Date: _/_,

The Broadcasting Services Amendment (Online Services) Act 1999 and Internet Industry Associations Code of Practice prohibits the provision of Internet Access to anyone under the age of 18 years without obtaining prior consent from a parent or guardian. If you are under the age of 18 years, please have your parent or guardian complete the following:

I am the lawful parent/guardian of _____ and give him/her consent to access the Internet through an Golden IT (Australia) Pty Ltd Account. I agree that I am responsible for the supervision of his/her use of the Internet, in accordance with the above Terms & Conditions, and take full responsibility for any material he/she may access through use of this account.

Name of Parent/Guardian: _____(Please print)

X Signature: _____ Date: _/ _/ _

Pricing (All Prices include GST)

Setup:

Setup Fees These fees apply to all accounts and are non-refundable.

Notes:

'Plan' indicates download/upload speeds. eg. 256/64 indicates a download speed of 256kbps and an upload speed of 64kbps.

'Monthly' indicates the amount payable per month. This will be direct debited from your credit card by Golden IT. 'Annual' indicates the amount payable in advance for a year for those who prefer an annual rather than monthly fee option. Annual payments may be made by credit card, cheque or money order to 1/18 Deblin Drive, Narre Warren, VIC, 3806.

'Data' indicates the amount of data you may download per month at the speeds indicated by your Plan.

Additional Information:

Subscription Fees – Setup Fee & Payment of 1st Month/Year must be included with the Application Form. Annual - This fee may be paid by direct debit or credit card.

Monthly - This fee may be paid by direct debit from a credit card, cash or cheque. (Non-refundable where month has commenced).

Achievable Speeds are subject to local environmental conditions and may vary.

Minimum Requirements:

Hardware: You MUST HAVE an Ethernet Port installed in your computer.

Software: Win 2000, Win XP, Vista or Mac OS 10.2 or later.

Installation is not currently available for other operating systems. Where appropriate, you should ensure the latest Windows Updates are installed.