

TELSTRA SERVICES ANNEX TO PACNET GENERAL CONDITIONS



This Annex applies to the supply of Services set out in a Telstra Service Schedule under Pacnet General Conditions or Pacnet Master Services Agreement (**Agreement**). The terms of this Annex prevail to the extent of any inconsistency with the Agreement.

1 SERVICE LEVELS

- 1.1 The service levels (including any service level credits) applicable to a Service are set out in the applicable Service Schedule.
- 1.2 If we fail to meet a service level, you may be entitled to a credit. To claim a credit, you must notify us of the claim within 60 days after the end of the month in which the Service failure occurred (or such other period set out in the applicable Service Schedule), giving details of:
- (a) the relevant dates and times of the Service failure, and time it was reported to our service desk and any test or performance data to support the claim; and
 - (b) the type of Service issue (such as a lack of Availability, packet loss or transit delay).
- 1.3 If you do not make a claim in accordance with clause 1.2 above, you cannot make any claim against us in respect of the service failure.
- 1.4 Where the failure of the Service is due to an Exclusion Event, we will not be liable for any failure to meet a service level (including the payment of any credits).

2 EARLY TERMINATION CHARGES

- 2.1 If Early Termination Charges are specified in a Service Order Form or Service Schedule, the Early Termination Charges in the General Conditions will not apply. If no Early Termination Charges are specified in a Service Order Form or Service Schedule, the Early Termination Charges in the General Conditions will apply.

3 DEFINITIONS

- 3.1 In this Annex or a Service Schedule references to “you” or “your” mean “Customer”, and references to “we”, “us” or “our” mean “Pacnet” for the purposes of the Agreement.

- 3.2 Any terms defined in the Agreement have the same meaning in this Annex, except that:

Available or **Availability** means the number of minutes in a month during which a Service is not Unavailable.

Business Day means any day other than a Saturday, Sunday or recognised public holiday in the jurisdiction where the relevant Service is provided.

Early Termination Charge (ETC) means any applicable early termination or downgrade charge for a Service, as set out or referred to in a Service Order Form or Service Schedule.

Exclusion Event means:

- (a) any faults or Unavailability caused or contributed to by the simultaneous failure of two or more international submarine cable systems not wholly owned or operated by us or a Service Provider for the relevant Service, where the fault or Unavailability would not have occurred if only one such cable system had failed;
- (b) any faults, Unavailability or failure not caused by us, or which is caused or contributed to by an act or omission of you, your Personnel and any third party (excluding a Service Provider), a Site (including access to a Site and availability of cabling facilities at a Site), equipment or software provided by you;
- (c) network or equipment modification, repair, preventative or emergency maintenance; or
- (d) Force Majeure event.

Initial Period means the minimum period for which you must acquire a Service, as set out in a Service Order Form or Service Schedule.

Personnel means a party's officers, employees, agents, contractors and sub-contractors.

Provisioning Fault has the meaning given to it in the applicable Service Schedule.

Service means each service particularized in a Service Order Form or Service Schedule.

Service Order Form has the same meaning as Order Form or SOF in the Agreement.

Service Provider means a service provider who provides services to us in connection with the Services (which may include our related company) for the purposes of reselling the Services to you, excluding any service providers from whom a related company of us acquires Services as an agent.

Service Schedule means a Service Schedule attached to the Agreement or a Service Order Form, or otherwise available at www.telstraglobal.com in respect of a Service.

Service Start Date means:

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- (a) if a Service Schedule specifies an acceptance test period, the date you accept or are deemed to accept the Service pursuant to that Service Schedule. You are deemed to accept the Service on the expiry of the test period unless you have notified us, and we have confirmed the existence, of a Provisioning Fault during the acceptance test period; or
- (b) if no acceptance test period is specified, the first day that the Service is installed and ready-for-use, as determined by us.

Site means your site to which a Service is supplied.

Unavailable or **Unavailability** means an unplanned outage that results in the total disruption of a Service, such that the Service is unable to send and receive data. Unavailability commences when a trouble ticket has been logged by our service desk, and excludes any period during which an Exclusion Event applies.