

Please read these terms and conditions carefully, and be sure that you understand them. Words with capital letters and in bold print (other than headings), for example **Access Plan**, have the meaning set out in the Dictionary at the end of this Agreement.

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I. Agreement

- 1.1 This Agreement comprises:
- your **Application**; and
 - these terms and conditions; and
 - the **Acceptable Use Policy**; and
 - your Access Plan**; and
 - the **Rate Card**; and applies to the provision of the **Services** to your **Premises**, and to the provision, installation and use of the **Customer Equipment**, and it commences on the date that we approve your **Application**.
- 1.2 Before you enter into this Agreement, you should carefully read the following:
- your **Application**; and
 - these terms and conditions; and
 - the **Acceptable Use Policy**; and
 - your Access Plan**; and
 - the **Rate Card**.
- 1.3 This Agreement sets out the terms and conditions under which **Cirrus** will provide you with the **Services**, and once you have entered into this Agreement you must comply with them at all times.

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- 1.4 This Agreement contains the entire understanding between you and **Cirrus** and no other written or verbal correspondence between you and **Cirrus** affects, or will affect the meaning or interpretation of this document.
- 1.5 This Agreement applies to the use of the **Services** and the **Customer Equipment** by you, and by any other person using your **Customer Equipment**, whether or not you have given permission to the other person to use them.
- 1.6 You can obtain a complete up to date copy of this Agreement including all amendments from our website at www.cirruscomms.com.au.

2. *Services that Cirrus will provide*

- 2.1 **Cirrus** will, in accordance with this Agreement:
- (a) supply and install **Customer Equipment** at your **Premises**; and
 - (b) connect, or allow you to connect, your computer to our **Network**; and
 - (c) use its reasonable endeavours to provide you with access to the Internet at **High Speed**, unless that access speed is limited; and
 - (d) provide you with a **Primary Email Address**, and the option to create additional email addresses (see the **Rate Card**); and
 - (e) provide you with **Customer Support**.
- 2.2 **Cirrus** may from time to time agree to provide you with **Additional Services** at the charge shown on the **Rate Card**, and subject to the conditions shown in **Rate Card** and/or the **Access Plan** under which they are offered, and this Agreement applies to those **Additional Services** as if they are the **Services**.
- 2.3 You must pay charges for the **Service** to access the Internet in advance from the date of installation, and you acknowledge that Cirrus is not required by this Agreement to provide you with an Internet access service if the charge for that service is not paid in advance.
- 2.4 You must pay charges for any **Additional Services** at the time and in the way specified in the **Rate Card** and/or the **Access Plan** under which they are offered.
- 2.5 **Cirrus** provides the **Services** by means of a wireless system, and because of technical and regulatory limitations on that wireless system you may not be able to obtain access to our **Network** even though you are within our coverage area because of:
- (a) **interference** from other radiocommunications services over which **Cirrus** has no control; or
 - (b) terrain or other circumstances or **interference** mechanisms impacting on the reception of radiocommunications signals between your modem and our **Network**.
- 2.6 It may also be necessary for **Cirrus** to interrupt access to our **Network** in order to upgrade or maintain the **Services** and/or the **Network**.
- 2.7 **Cirrus** may not be able to provide you with the **Services**, including access to the Internet, if you interfere with or modify the **Customer Equipment**.

3. *Supply and Use of Customer Equipment that is owned by the Customer*

- 3.1 This clause 3 applies to a Customer whose application for the Services was approved by Cirrus before 11 February, 2006, for customers on Cirrus Plus Access Plans and for Customers that were previously customers of Unisky Pty Ltd, Lisp and Chariot
- 3.2 **Cirrus** will provide you with **Customer Equipment** and all risk and title in the **Customer Equipment** passes to you at the time that it is installed at your **Premises**.
- 3.3 From the time that the **Customer Equipment** is installed at your **Premises**, you must:
- (a) care for and maintain it, otherwise **Cirrus** may not be able to supply the **Services** to you; and
 - (b) use the **Customer Equipment** only in connection with the **Network** and the **Services**, and strictly in accordance with:
 - (i) the manufacturer's specifications and recommendations; and
 - (ii) any instructions reasonably given to you by **Cirrus** either by pre-paid mail, by email or by

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notice on the **Website**.

- 3.4 You must not use or access, or allow any other person to use or access the **Services** except by means of the **Customer Equipment**.
- 3.5 **Cirrus** may from time to time remotely upgrade software for use in conjunction with the outdoor mounted modem supplied to you as part of the **Customer Equipment**, and you agree that you will allow that upgrade to occur.
- 3.6 **Cirrus** is not required to maintain the **Customer Equipment** after it has been installed.
- 3A. Supply and Use of Customer Equipment owned by Cirrus**
- 3A.1 This clause 3A applies to a Customer whose application for the Services was approved on or after **11 February, 2006** and for Customers that were previously customers of CommsLogic Pty Ltd and Wirefree Networks Pty Ltd.
- 3A.2 **Cirrus** will supply you with **Customer Equipment** which may be either new, or “as new”, and:
- (a) **Cirrus** retains full right, title and interest to that **Customer Equipment** at all times; and
 - (b) that **Customer Equipment** remains the property of **Cirrus** following its installation at your **Premises** whether or not it has become (either in whole or in part), a fixture.
- 3A.3 From the time that the **Customer Equipment** is installed at **your Premises**, you must:
- (a) care for and maintain it, otherwise **Cirrus** may not be able to supply the **Services** to you; and
 - (b) use the **Customer Equipment** only in connection with the **Network** and the **Services**, and strictly in accordance with:
 - (i) the manufacturer’s specifications and recommendations; and
 - (ii) any instructions reasonably given to you by **Cirrus** either by pre-paid mail, by email or by notice on the **Website**.
- 3A.3 You must not:
- (a) disconnect, interfere with or modify the **Customer Equipment**, connect anything to it that **Cirrus** has not authorized, or do anything illegal in relation to it; or
 - (b) remove any marking that indicates that it is the property of **Cirrus**; or
 - (c) sell the **Customer Equipment**, part with possession of it, allow it to be used as security or give any other person any other rights in relation to it.
- 3A.4 You must not use or access, or allow any other person to use or access the **Services** except by means of the **Customer Equipment**.
- 3A.5 **Cirrus** may from time to time remotely upgrade software for use in conjunction with the outdoor mounted modem supplied to you as part of the **Customer Equipment**, and you agree that you will allow that upgrade to occur.
- 3A.6 On the expiry or termination of this Agreement, you must immediately cease using the **Customer Equipment** and, as soon as is practicable and at your own expense, return the **Customer Equipment** to **Cirrus**.
- 3A.7 If you do not return the **Customer Equipment** to **Cirrus** in accordance with clause 3A.6:
- (a) you must allow **Cirrus** to collect the **Customer Equipment**, including by removing it from your computer and/or **your Premises**;
 - (b) you authorize **Cirrus** to do all things reasonably necessary to collect the equipment, including entering property that you occupy or control; and
 - (c) **Cirrus** may charge you a fee for collection.
- 3A.8 You must pay to **Cirrus** an amount equal to the replacement value of any **Customer Equipment** that has been supplied to you, and that is:
- (a) not returned to **Cirrus** in accordance with clause 3A.6, or collected by **Cirrus** under clause 3A.7; or
 - (b) lost, damaged or stolen.

4. Installation of Customer Equipment by Cirrus

- 4.1 You must ask your council if you need development consent to install the **Customer Equipment** at your **Premises** and, if so, you must obtain that consent before the **Customer Equipment** is installed.

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- 4.2 If you do not own the **Premises** or you must, for any other reason, give notice to or obtain the permission of another person before **Cirrus** may install the **Customer Equipment** at the **Premises**, you warrant to **Cirrus** that before the installation commences you have given that notice, or obtained that permission in writing, and you agree that, if requested, you will provide a copy of the written notice or permission to **Cirrus** and/or its installer.
- 4.3 If you have paid the appropriate charge for installation shown on the **Rate Card Cirrus** will, subject to the clauses 4.13 and 4.14, install the **Customer Equipment** at the **Premises**.
- 4.4 The installation charge covers the cost of a standard installation of the **Customer Equipment**, and if a standard installation of **Customer Equipment** cannot be carried out:
- (a) you may have to pay additional charges to the installer in respect of additional materials or time; and
 - (b) other charges may be payable in relation to the non-standard installation, and you acknowledge that such charges will be the subject of a separate agreement between you and the installer, and you will not make any claim against **Cirrus** in relation to those additional charges.
- 4.5 For clause 4.4, a standard installation comprises the installation of the **Customer Equipment** to a free-standing residential property the roof of which can be reached by means of an extension ladder and:
- (a) by means of a fascia or roof-mounted non-telescopic mast or other mounting hardware for the antenna; and
 - (b) using no more than 20 metres of cabling between the antenna and the indoor RJ45 connector or wall plate.
- 4.6 If additional charges are payable to **Cirrus** before an installation is carried out, we will tell you the amount of those charges before we install the **Customer Equipment**.
- 4.7 **Cirrus** will make an appointment for installation of the **Customer Equipment** and will try to keep the appointment, but will not be liable to you for any loss or damage that you suffer if **Cirrus** does not keep the appointment.
- 4.8 If we need to re-schedule an installation appointment, we will give you 24 hours notice of the change.
- 4.9 If you need to re-schedule an installation appointment, you must give us 24 hours notice.
- 4.10 If you fail to keep a scheduled installation appointment we may charge you the booking fee set out in the **Rate Card** for arranging another installation appointment.
- 4.11 If our installer arrives to install the **Customer Equipment** and finds that your computer does not meet the **Minimum System Requirements**, we may charge you the re-visit fee set out in the **Rate Card** for making and attending another installation appointment.
- 4.12 Our installer will advise you of the location for the **Customer Equipment** that should provide the best reception to your **Premises**, and will make all reasonable efforts to position or align the **Customer Equipment** to mitigate any **interference**.
- 4.13 If our installer reasonably considers that the **Customer Equipment** cannot be installed at the **Premises** because:
- (a) the structural condition of, or some other aspect of the **Premises** or something at the **Premises**, make the installation impossible; or
 - (b) the installation would be unsafe or would cause undue damage to the **Premises**; we are not required to do anything to make the installation possible.
- 4.14 If our installer reasonably considers that the **Services** cannot be provided to your premises because of **interference**, we will not proceed with the installation and you will not be charged any fee.

4A. Installation of Customer Equipment by Customer

- 4A.1 Where the Customer has elected to purchase a “self-install kit”, the Customer is responsible for all aspects of the installation of **Customer Equipment** at the Customer’s expense.

5. Safe Access to Premises

- 5.1 You must provide safe access to the **Premises**, and such assistance as is reasonably necessary, for **Cirrus** to:
- (a) install the **Customer Equipment**; and

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- (b) provide **Customer Support** or otherwise carry out a service call under this Agreement; and
- (c) ensure that you are complying with this Agreement, including the **Acceptable Use Policy**.

5.2 If we reasonably consider that it would be unsafe for our installer to install the **Customer Equipment** at the **Premises**, we do not have to undertake that installation.

6. *Your Computer*

6.1 You must ensure that your computer, the software on it, and any communications equipment that you use or propose to use in relation to the **Services**:

- (a) meets the **Minimum System Requirements**; and
- (b) is compatible with the **Customer Equipment** and the systems operated on our **Network**.

6.2 You are solely responsible for maintaining and operating your computer.

6.3 You must supply an adequate power supply required for the operation of your computer and the **Customer Equipment**.

6.4 You must back up all your existing files to another computer, or to an appropriate storage medium, before any **Customer Equipment** and Software associated with the **Customer Equipment** is installed on your computer.

7. *Data Usage and Download Speeds*

7.1 Some **Access Plans** set a limit on the amount of data that you can receive at **High Speed** over our **Network** within a specified period (the **Data Limit**).

7.2 **Cirrus** will notify you, by email to your **Primary Email** Address, when you have exceeded:

- (a) 85% of the **Data Limit**;
- (b) 100% of the **Data Limit**.

7.3 If you exceed the **Data Limit** you will only be able to send or receive data over our **Network** at **Reduced Speed**.

8. *Customer Support*

8.1 **Cirrus** will provide you with customer support 6 days a week (Monday to Saturday) by telephone between the hours of 09:00 and 20:00 Monday to Friday (NSW Time) and 09:00 and 17:00 Saturday (NSW Time).

- (a) for your installation of the **Customer Equipment** on your computer; and
- (b) for problems relating to connecting to the internet using the **Customer Equipment** and any protocols supported by **Cirrus**.

8.2 You can request **Customer Support** by telephoning our Customer Service Centre on (02) 4336 2000 or by emailing your inquiry to support@cirruscomms.com.au, and **Cirrus** will use reasonable efforts to rectify any problems in the **Services** as soon as possible.

8.3 If you request **Customer Support** at your **Premises**, and **Cirrus** agrees to provide it there:

- (a) **Cirrus** will make an appointment which it will try to keep, but will not be liable to you for any loss or damage that you suffer if **Cirrus** does not keep the appointment; and
- (b) you must pay **Cirrus** for the service call in accordance with the **Rate Card**.

8.4 **Cirrus** does not have to provide **Customer Support** at your **Premises**.

8.5 **Cirrus** will not provide **Customer Support** for:

- (a) configuring more than one computer, or in relation to the configuration of networking devices or local area networks for connection to our **Network**; or
- (b) problems arising out of the operating system or other software installed on your computer, or difficulties you may encounter in browsing the internet; or
- (c) private transmission equipment, data transmission or any other service provided by a carrier or a party other than **Cirrus**.

8.6 If you report a fault, and **Cirrus** discovers that you caused the fault, **Cirrus** may charge you the amount set out in the ©Cirrus Communications Pty Ltd (ABN 87 109 931 731) 2006

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Rate Card to cover our reasonable costs in finding the fault and fixing it, unless the fault was caused as a result of our instructions.

- 8.7 If you report a fault, and:
- (a) based on the information available, **Cirrus** reasonably considers that there is no fault or that we did not cause the fault and our staff tell you this; and
 - (b) you still ask us to visit your **Premises** to provide you with customer support; and
 - (c) on attending at your **Premises**, we confirm either that there is no fault or that, if there is a fault, we did not cause it; we may charge you the amount set out in the **Rate Card** to cover our reasonable costs in investigating the fault.

9. Maintenance of Customer Equipment owned by Cirrus Customers

- 9.1 This clause 9 applies to a Customer whose application for the Services was approved before 11 February, 2006 for customers on Cirrus Plus Access Plans and for Customers that were previously customers of Unisky Pty Ltd, Lisp and Chariot.
- 9.2 Except to the extent that we are liable to you under clause 17 (if you are a residential customer) or clause 18 if you are a business customer, you are responsible for the care of the **Customer Equipment**, and for the cost of repairing and/or replacing any faulty **Customer Equipment** although **Cirrus** will, where possible, pass on to you the benefit of any **Manufacturer's warranty**.
- 9.3 However, **Cirrus** is not required in any circumstances to replace or repair **Customer Equipment** affected by:
- (a) any abuse, misuse, neglect, mishandling or misapplication, accident, improper maintenance or service; or
 - (b) unusual hazards (including, but not limited to, exposure to excessive humidity, heat, cold, dust, food, liquids, magnetic or electromagnetic interference or incorrect power voltage); or
 - (c) electrical supply problems or failure to provide a suitable environment for the **Customer Equipment**; or
 - (d) any natural disaster (including but not limited to floods, lightning and fire), acts of terrorism or any other cause beyond **Cirrus's** reasonable control; or
 - (e) your failure to comply with clause 3.2(a) or (b).
- 9.4 **Cirrus** is not required to replace or repair, or to pass on to you any manufacturer or supplier warranty in relation to **Customer Equipment**, if any factory seal, serial number or warranty sticker has been removed from the **Customer Equipment**.
- 9.5 You must pay **Cirrus** the cost of the repair, refurbishment or replacement of any **Customer Equipment**, including the cost of any collection or delivery of **Customer Equipment**, in accordance with the **Rate Card**. [Note: If the cost of the repair, refurbishment or replacement of the **Customer Equipment** is covered by a **Manufacturer's warranty**, you will not have to pay more than the administrative cost of dealing with your request.]
- 9.6 If **Cirrus** makes a service call at your request but there is no fault with the **Customer Equipment**, for example, if the **Services** are not working because you are not operating your computer properly, **Cirrus** may charge you for the service call in accordance with the **Rate Card**.
- 9.7 After the **Manufacturer's Warranty** in relation to **Customer Equipment** (if any) has expired, the maintenance of the **Customer Equipment** will be your responsibility, and if **Cirrus** repairs or replaces **Customer Equipment** after that time, **Cirrus** may charge you a fee for doing so in accordance with the **Rate Card**.

9A. Maintenance of Customer Equipment Owned by Cirrus

- 9A.1 This clause 9A applies to a Customer whose application for the Services was approved by Cirrus on or after **11 February, 2006** and for Customers that were previously customers of CommsLogic Pty Ltd and Wirefree Networks Pty Ltd
- 9A.2 Subject to clauses 9A.3, 9A.4 and 9A.5, if you notify **Cirrus** of a fault with **Customer Equipment** in accordance with the instructions at the **Website**, **Cirrus** must:
- (a) repair or refurbish all or part of that **Customer Equipment**; or
 - (b) replace the **Customer Equipment** with other **Customer Equipment**, which may or may not be the same brand or model, or have the same specifications, features or functionality; and may choose between options (a) and (b) in its absolute discretion.

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- 9A.3 However, **Cirrus** is not required in any circumstances to replace or repair **Customer Equipment** affected by:
- (a) any abuse, misuse, neglect, mishandling or misapplication, accident, improper maintenance or service; or
 - (b) unusual hazards (including, but not limited to, exposure to excessive humidity, heat, cold, dust, food, liquids, magnetic or electromagnetic interference or incorrect power voltage); or
 - (c) electrical supply problems or failure to provide a suitable environment for the **Customer Equipment**; or
 - (d) any natural disaster (including but not limited to floods, lightning and fire), acts of terrorism or any other cause beyond **Cirrus's** reasonable control; or
 - (e) your failure to comply with clause 3A.2(a) or (b).
- 9A.4 **Cirrus** is not required to replace or repair, or to pass on to you any manufacturer or supplier warranty in relation to **Customer Equipment**, if any factory seal, serial number or warranty sticker has been removed from the **Customer Equipment**.
- 9A.5 If **Cirrus** has repaired, refurbished or replaced any **Customer Equipment** in circumstances where it was not required to do so by virtue of clause 9A.3 or 9A.4, you must pay **Cirrus** all costs that it incurred in doing so, including the cost of any collection or delivery of that **Customer Equipment**, in accordance with the **Rate Card**.
- 9A.6 If **Cirrus** agrees to repair, refurbish or replace any **Customer Equipment** even though it is not required to do so by virtue of clause 9A.3 or 9A.4, you must pay **Cirrus** in advance for that repair, refurbishment or replacement, including the cost of any collection or delivery of that **Customer Equipment**, in accordance with the **Rate Card**.
- 9A.7 If **Cirrus** makes a service call at your request but there is no fault with the **Customer Equipment**, for example, if the **Services** are not working because you are not operating your computer properly, **Cirrus** may charge you for the service call in accordance with the **Rate Card**.

10. Access Plans

- 10.1 **Cirrus** has established different combinations of data usage limits, fees and other conditions for the use of the **Services**, which it calls **Access Plans** and which you can see at the **Website**.
- 10.2 You may be able to change **your Access Plan** to another **Access Plan**, and you can ask **Cirrus** for a change in **Access Plan** by calling our Customer Service Centre on (02) 4336 2020 or by sending an email to support@cirruscomms.com.au.
- 10.3 If **your Access Plan** has a **Minimum Term**, you can only change **your Access Plan** to an **Access Plan** with a lower **Monthly Fee** if the **Minimum Term** has expired.
- 10.4 A change from one **Access Plan** to another will take place at the time shown in the **Access Plans**, but if no time is shown in the **Access Plans** for this purpose:
- (a) if you change to an **Access Plan** with a higher download speed – within 24 hours of the request being made; and
 - (b) if you change to an **Access Plan** with a lower download speed – at the end of the billing cycle under your current **Access Plan**.
- 10.5 When we change your **Access Plan**:
- (a) the date on which we effect the change will be your new billing date; and
 - (b) your next bill will separately itemize the charges for the Service before and after the change; and until we make the change your existing **Access Plan** will continue to apply.
- 10.6 Changing **your Access Plan** does not change the duration of this Agreement, which continues in force and applies to the **Services** provided under the new Access Plan until terminated in accordance with clause 16.
- 10.7 Some **Access Plans** contain terms and conditions that are different or additional to, the terms and conditions under **your Access Plan**, and you must comply with the terms and conditions in any **Access Plan** to which **Cirrus** agrees you can change.

11. Changes to or Additional Location for Services

- 11.1 You may ask **Cirrus** to change the **Premises** to which the **Services** are supplied, and if we are able to provide the **Services** at those **Premises** and agree to do so, you must pay the charges shown in the **Rate Card** for:
- (a) the removal and/or re-installation of your existing **Customer Equipment**; and

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(b) the supply and/or installation of new **Customer Equipment** at the **Premises**.

11.2 We will tell you of the charges payable under clause 11.1 before we start work, and will only start work when you have authorized us to do so.

11.3 We will tell you if we cannot provide the **Services** to you at the new **Premises** because of technical limitations.

11.4 If you want the **Services** to be supplied to additional **Premises**, you will have to apply for a new service to those **Premises**, and enter into a separate agreement with us for the supply of those services.

12. Changes to Agreement

12.1 **Cirrus** may from time to time change this Agreement (that is, these terms and conditions, the **Acceptable Use Policy**, the **Rate Card** and **Access Plan**) in accordance with clauses 12.2 – 12.8 inclusive.

12.2 **Cirrus** may change this Agreement by giving you notice of the change by any of the following means:

- (a) pre-paid post to the last address that you gave to **Cirrus**; or
- (b) email to your **Primary Email Address**; or
- (c) placing a notice on the **Website**.

12.3 You must make sure that you are aware of any changes made under clause 12.2 by regularly checking for notices and emails from **Cirrus** on:

- (a) the **Website**; and
- (b) your **Primary Email Address**; and
- (c) any email address to which you have arranged for email to be forwarded from your **Primary Email Address**.

12.4 **Cirrus** must give you at least 30 days notice of a change unless:

- (a) the change must be made immediately in order to act legally, or because the change is required by law, and in these circumstances **Cirrus** will give you as much notice as practicable; or
- (b) the change will benefit you, in which case **Cirrus** can make the change without giving you notice.

12.5 If **Cirrus** makes a change to this Agreement other than in the circumstances described in clause 12.4, and the change will mean that you are materially worse off:

- (a) you can choose to terminate this Agreement by giving us notice within 14 days of the date that we notify you of the change; and
- (b) the Agreement will be terminated from the date on which the change takes effect; and
- (c) you will not have to pay the Cancellation Charge.

12.6 If you choose to cancel this Agreement under clause 12.5(a), **Cirrus** will give you a pro-rate refund of your monthly fee.

12.7 If you do not give us notice of your decision to terminate this Agreement under clause 12.5(a), and you continue to use the **Services** from the date on which the change takes effect, you will be taken to have unconditionally agreed to the change.

12.8 **Cirrus** cannot change this Agreement so as to increase charges that you have already incurred.

13. What you must not do

13.1 You must not use, or attempt to use, the **Services**:

- (a) for any activities which breach any laws, infringe a third party's rights, or breach any standards, content requirements or codes promulgated by any relevant authority including activities which will require **Cirrus** to take remedial action under any Industry Code which **Cirrus** has, from time to time been directed to comply, to or to which **Cirrus** subscribes; or
- (b) in a way which interferes with other users or sends unsolicited or unwelcome electronic mail messages to anyone;
- (c) to transmit, publish or communicate any material which is, or is likely to be, defamatory, offensive, indecent, abusive, menacing or unwanted;

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(d) to gain unauthorised access to any computing, information or communications devices or resources, including, without limitation, machines accessible via the Internet and the accounts or materials of other persons stored on or passing over our **Network**.

- 13.2 You should obtain such expert advice as you consider necessary about whether your use of the **Services** involves activities which breach any laws, infringe a third party's rights, or breach any standards, content requirements or codes promulgated by any relevant authority including the Internet Industry Association Code of Conduct.
- 13.3 You must not resell, share or otherwise distribute all or any part of the **Services** to any third party without **Cirrus**'s prior written consent, for example and without limitation, by providing Internet access to others through a dial-up or wireless connection, or hosting shell accounts over the Internet.
- 13.4 You must not, unless you have **Cirrus**'s prior written consent, run network services or provide network services to others from your system by means of the **Services**, for example and without limitation, by providing network services for e-mail, http, (Hypertext Transfer Protocol), ftp (File Transfer Protocol), IRC (Internet Relay Chat), dhcp (Dynamic Host Configuration Protocol) or multi-user interactive forums.
- 13.5 You must not send or disclose any information that would allow a person to use the **Services** to anybody other than **Cirrus**, or store them in any form, whether coded or un-encoded, in a location where it is capable of being read by anybody other than you.
- 13.6 You must not permit any other person, other than adult members of your household or others with your express permission and under your personal supervision, to access the **Services** using the **Customer Equipment** and you accept responsibility for all aspects of use of the **Services** by all persons using the **Customer Equipment**.
- 13.7 **Cirrus** will provide you with a dynamic IP address to connect to you to the **Network**, and may change that address from time to time without notice.
- 13.8 You must not configure your computer to use a static IP address that has not been assigned to you unless: (a) **Cirrus** has, in its absolute discretion assigned you the static IP address; and (b) you have paid the relevant charge under the **Rate Card**.

14. What you must do under this Agreement and our Acceptable Use Policy

- 14.1 Because **Cirrus** is not responsible for Internet content that may be viewed using the **Services**, you must ensure that minors (under 18 years of age) are supervised by a parent, teacher or other responsible adult at all times while using the **Services** to access the Internet.
- 14.2 You must comply with the **Acceptable Use Policy**, and with any reasonable instructions that **Cirrus** gives you in relation to the **Services**.
- 14.3 You are responsible for the maintenance and care of the equipment you use to connect to the **Services**, including backup of all information including, without limitation, software and data.
- 14.4 Unless your **Access Plan** is a business or enterprise plan, you must only use the **Services** for personal and non-commercial purposes.
- 14.5 You must ensure the security of your account by:
- (a) ensuring that your computer system is up to date and secure; and
 - (b) maintaining current anti-virus, firewall and other appropriate security measures; and
 - (c) exercising due care when using and retrieving information from the Internet.
- 14.6 You must notify **Cirrus** immediately if there is a change to any details you have given in your **Application**

15. Charges and How You Must Pay Them

- 15.1 A number of charges apply to the supply of the **Services**, **Customer Equipment** and **Customer Equipment** to you by **Cirrus**, for example:
- (a) charges for access to the Internet; and
 - (b) charges for other services provided to you by **Cirrus**, for example for making a service call to install equipment on your computer; and

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- (c) the price for Customer Equipment; and
- (d) cancellation and late payment fees.

15.2 Charges are due and payable:

- (a) for internet access services – monthly in advance; and
- (b) for other services and products – before the service or product is provided or supplied; and
- (c) in all other cases, at the time that the charge accrues under this Agreement.

15.3 You must pay all Charges without any set off, counter claim or deduction, and even when you are unable to use the Services for any reason, including where the Services are suspended by Cirrus.

15.4 Despite clause 15.3, at your request **Cirrus** will apply any deposit that **Cirrus** may from time to time hold as security for amounts payable by you under this Agreement on its termination if, and only if:

- (a) the amount that is payable by you on termination of this Agreement in full and final settlement of your account is not greater than the amount of the security deposit; and
- (b) you have provided **Cirrus** with all consents and authorizations that it has reasonably required.

15.5 **Cirrus** may set off any amount payable to you against any amount payable by you to **Cirrus**.

15.6 You must notify **Cirrus** of any disputed amounts immediately after receiving your credit card statement, but you must still pay all **Charges** in advance as they fall due -**Cirrus** may issue you a credit later.

15.7 If you do not pay the **Charges** at the times specified in your **Application** or **Access Plan**, or in the **Rate Card**, **Cirrus** may:

- (a) charge a late payment fee on the overdue amounts (see the **Rate Card**); and
- (b) if the overdue amount is more than \$100.00, charge you interest on the outstanding amount at an annual rate equal to the prime-lending rate of **Cirrus**'s principal banker, calculated daily on the total overdue amount calculated from the due date until the date of payment in full; and
- (c) charge any reasonable expenses incurred by **Cirrus** in connection with the recovery of any amounts that you owe **Cirrus**, (including but not limited to the costs of engaging a mercantile agency and/or solicitors).

15.8 The late payment fee, interest and expenses referred to in clause 15.7 represent our genuine estimate of the loss that we are likely to suffer as a result of your failure to pay the **Charges** as required by this Agreement.

15.9 If you do not pay the **Charge** for access to the Internet in advance, **Cirrus**:

- (a) is not required by this Agreement to provide you with access to the Internet; and
- (b) will not charge you a re-connection fee for again providing you with access to the Internet after you have paid the **Charge** in advance.

15.10 The charges in the **Rate Card** may not include all taxes and you must pay **Cirrus** when we ask you, for any applicable stamp and other duties, fees, taxes (including goods and services tax) and charges payable on:

- (a) your purchase from **Cirrus** of any item in relation to the **Services**; and
- (b) this Agreement or the performance of this Agreement; and
- (c) any payment, receipt or other transaction arising out of this Agreement.

15.11 Without limiting clause 15.10, if GST is imposed on any supply made by **Cirrus** under this Agreement, you must pay to us, in addition to any consideration payable, or to be provided, by you under this Agreement for that supply, an additional amount for the supply calculated by multiplying the prevailing GST rate by the consideration for the relevant supply payable, or to be provided (without any deduction or set-off) by you under any other clause of this Agreement.

15.12 Any amount payable by you under clause 15.11 is payable at the same time that the relevant charge for the service is payable.

15.13 You acknowledge that you are responsible for all costs associated with information that you send to or receive from third parties by means of the **Services** including without limitation, text, graphics, software, sound, video, e-mail and any other form of electronic information or other products and services.

15.14 To the extent permitted by law you irrevocably authorize **Cirrus** to:

- (a) automatically debit against your credit card, in advance and at any time after invoicing, the **Charges** for any internet access **Services** provided or to be provided under this Agreement using the **Customer Equipment**; and
- (b) automatically debit against your credit card, any **Charges** for any other **Services** or products supplied or to be

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supplied under this Agreement, in advance or at any other time including after termination or suspension of the **Services**; and

- (c) obtain information from any financial institution or credit card issuer to verify the credit card details that you provide to us; and
- (d) take steps to verify that there is sufficient credit on your credit card account to meet likely fees.

15.15 If we do not receive payment from the issuer of your credit card, or its agent, you agree to pay us all amounts due.

16. Suspension and Termination of Services

16.1 **Cirrus** may suspend or terminate the **Services** if:

- (a) you resell a **Service** or otherwise engage in conduct by virtue of which you are a carriage service provider within the meaning of the *Telecommunications Act 1997*; or
- (b) you commit a material breach, or **Cirrus** reasonably suspects that you have materially breached, this Agreement; or
- (c) your activities, in **Cirrus**'s opinion, unreasonably restrict, inhibit, or degrade any other customer's use of the **Services**, or represent an unusually large burden on **Cirrus**'s staff or our **Network**; or
- (d) you die or if in a partnership, the partnership is dissolved or an **Insolvency Event** occurs; or
- (e) you breach the **Acceptable Use Policy**, or **Cirrus** reasonably considers it necessary to give effect to the **Acceptable Use Policy**; or
- (f) **Cirrus** reasonably suspects that you have engaged in fraudulent or other illegal conduct in relation to the **Services** or any other person using the **Services**; or
- (g) **Cirrus** has reasonable grounds for believing that you represent a credit risk in relation to the **Services**, for example:
- (h) you have an unusually high volume for your use of the service compared with previous activity for that service; or
 - a.(ii) you have failed to respond to notices from **Cirrus** about unusual spend or activity; or
 - b.(iii) you have not paid an amount due and payable in circumstances where your payment history indicates a series of late payments, dishonoured payments or failures to pay; or
 - c.(iv) public notice has been given in relation to your pending insolvency or bankruptcy.

16.2 **Cirrus** must take reasonable steps to give you notice of suspension or termination, but failure to give you notice does not affect **Cirrus**'s right to terminate or suspend the **Services**.

16.3 **Cirrus** may not suspend **Services** indefinitely, but if you have not paid the **Charge** for a **Service** in advance when this Agreement requires you to do so, **Cirrus** is not required to provide that service until the **Charge** is paid.

16.4 If you undertake in writing to comply with this Agreement in the future **Cirrus** may, in its absolute discretion, resume the **Services** after a suspension, but **Cirrus** may charge a re-connection fee (see the **Rate Card**).

16.5 However, **Cirrus** must not charge a re-connection fee if it suspends a **Service**:

- (a) solely as a result of an error by **Cirrus**; or
- (b) because **Cirrus** has failed to comply with its obligations under this Agreement.

16.6 **Cirrus** may also suspend the **Services** at any time and without notice, for any of the following reasons:

- (a) technical issues;
- (b) the conduct of network repairs;
- (c) to comply with any law or an order of an emergency service or government authority.

16.7 You may receive a pro-rata refund of relevant **Charges** for any period in which a **Service** is suspended unless the suspension is at your request or:

- (a) arises out of your material breach of this Agreement; or
- (b) is in relation to an outage of our **Network** which results in the **Service** being inaccessible for an insignificant period; or
- (c) **Cirrus** has reasonable grounds for believing that you represent a credit risk in relation to the **Services**, for example:
 - (i) you have an unusually high volume for your use of the service compared with previous activity for that service; or
 - (ii) you have failed to respond to notices from **Cirrus** about unusual spend or activity; or
 - (iii) you have not paid an amount due and payable in circumstances where your payment history indicates a series of late payments, dishonoured payments or failures to pay; or

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(iv) public notice has been given in relation to your pending insolvency or bankruptcy..

- 16.8 You may terminate the **Services** by giving **Cirrus** thirty (30) days' notice in writing.
- 16.9 You will be charged a cancellation fee (see the **Rate Card**) if you:
- (a) cancel your application for the **Services** before installation; or
 - (b) have agreed to take the **Services** for a minimum fixed period, and you terminate the **Services** before that period has expired.
- 16.10 A cancellation fee payable under clause 16.9 represents our genuine estimate of the loss that we are likely to suffer as a result of your canceling your application, or terminating the **Services** before the expiry of the fixed period.

17. Liability for Residential Customers

- 17.1 This clause 17 applies if you have told **Cirrus** in your application form that you are taking up the **Services** predominantly for personal, household or domestic use or consumption.
- 17.2 **Cirrus** will use reasonable care and skill in providing the **Services** in accordance with this Agreement, but because of the nature of the Internet **Cirrus** does not warrant that the **Services**, and in particular access to the Internet, will be uninterrupted or error-free.
- 17.3 This Agreement comprises only the terms that are expressly set out in it, and any other terms that are implied by laws which **Cirrus** cannot exclude, and no other terms apply.
- 17.4 If **Cirrus** breaches this Agreement, or acts negligently according to the principles applied by the courts, **Cirrus** accepts liability to you for that breach or action, except as set out in clauses 17.5 and 17.6.
- 17.5 Because you have told us that you have taken up the **Services** predominantly for personal, household or domestic use or consumption, **Cirrus** does not accept liability for any business related loss which arises out of the use of the **Services**, unless **Cirrus** cannot exclude that liability because of any legislation.
- 17.6 **Cirrus** will not be liable to you for any loss that you suffer to the extent that you cause or contribute to that loss, for example through your own negligence or breach of this Agreement.
- 17.7 **Cirrus** accepts liability for any direct loss suffered by you which is caused by:
- (a) any goods or materials supplied in connection with the **Services** not being reasonably fit for the purpose for which they are supplied; and
 - (b) **Cirrus** breaching a condition or warranty that is implied into this Agreement by the Trade Practices Act.
- 17.8 You are liable to us for any loss **Cirrus** suffers if you breach this Agreement or act negligently under the principles applied by the courts, except to the extent that the loss is it is caused by **Cirrus**, for example, through our negligence or breach of this Agreement.

18. Liability for Business Customers

- 18.1 This clause 18 applies to you if you have told us in your application form that you are not taking up the **Services** predominantly for personal, household or domestic use or consumption.
- 18.2 Subject to clauses 18.3 and 18.4, where the price of the **Services** does not exceed \$40,000, or the **Services** are of a kind that is ordinarily acquired for personal, domestic or household use or consumption, we accept liability for any direct loss that is caused by:
- (a) our failure to provide the Services with due care and skill; and
 - (b) any goods or materials supplied in connection with the **Services** not being reasonably fit for the purpose for which they are supplied; and
 - (c) our breach of a condition or warranty that is implied into this Agreement by the Trade Practices Act.
- 18.3 We are not liable for any loss to the extent that:
- (a) it is a direct loss that you have not mitigated to the greatest extent possible; or
 - (b) the loss is caused by you, for example through your negligence or through a breach of this Agreement.

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- 18.4 Except to the extent that the price of the **Services** does not exceed \$40,000, or the **Services** are a service ordinarily acquired for personal, domestic or household use, and provided that it is fair and reasonable for **Cirrus** to do so, **Cirrus** limits its liability to:
- (a) if the liability relates to services -either re-supplying the services or paying the cost of their re-supply; or
 - (b) if the liability relates to goods – repairing the goods or refunding their purchase price.
- 18.5 To the extent permitted by law, **Cirrus** excludes all liability to you, whether arising in contract, tort (including negligence) or under statute, or for any other reason or cause whatsoever, for any **Consequential Loss** that arises from or relates to this Agreement, you may suffer or incur in connection with:
- (a) the supply, use, faults in or interruption of the **Services**; or
 - (b) the **Customer Equipment**, its use or operation; or
 - (c) any use made of the **Services** including any content that is sent, received, viewed, stored or hosted using the **Services**.
- 18.6 To the extent permitted by law, **Cirrus**'s total liability for loss that is, for any reason, not covered by, excluded or limited by clauses 18.2 – 18.5 inclusive, is limited in aggregate for each and all claims to a total of \$100.
- 18.7 You are liable to us for any loss we suffer if you breach this Agreement or act negligently under the principles applied by the courts, except to the extent that the loss is it is caused by us, for example, through our negligence or breach of this Agreement.

19. Your Personal and Credit Information

- 19.1 **Cirrus** collects and uses **Personal Information** about you primarily to supply you with the **Customer Equipment**, the **Services**, any **Additional Services**, and any other goods or services that you may from time to time order from **Cirrus** and its related corporations.
- 19.2 **Cirrus** also collects and uses **Personal Information** for other, secondary, purposes including:
- (a) billing and account management; and
 - (b) ensuring that you comply with your obligations under this Agreement; and
 - (c) business planning and product development; and
 - (d) to provide you with information about promotions, as well as the products and services of **Cirrus**, its related corporations and other organisations.
- 19.3 If you do not give **Cirrus** all the **Personal Information** that **Cirrus** asks you for, **Cirrus** may not be able to supply those services, items and/or products, or may be restricted in the way it supplies you with those services, items and/or products.
- 19.4 You authorise **Cirrus** to disclose **Personal Information** about you for the purposes set out in clause 19.1 to:
- (a) any other corporation from time to time related to **Cirrus**; and
 - (b) **Cirrus**'s agents, dealers, contractors and franchisees; and
 - (c) those of **Cirrus**'s suppliers who need access to the **Personal Information** to provide **Cirrus** with services, so that **Cirrus** and any related corporations can then supply you with the products and services you have ordered; and
 - (d) any joint venture partners of **Cirrus** and its related corporations.
- 19.5 If you do not wish to receive communications from **Cirrus** and its related corporations that are not related to the **Services** or **Additional Services** that you are receiving, or that are not legally required, you may ask **Cirrus** not to send you those communications by contacting **Cirrus** customer support staff.
- 19.6 You authorise **Cirrus** to disclose **Credit Information** that **Cirrus** holds to a credit reporting agency for the purposes of:
- (a) processing your application and the ongoing credit management of your account; or
 - (b) obtaining a consumer credit report about you; or
 - (c) allowing the credit reporting agency to create or maintain a credit information file containing information about you.
- 19.7 **Cirrus** may obtain and use information concerning your commercial activities and commercial credit worthiness from

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a credit reporting agency or other business that reports on commercial credit worthiness to assess your application for the Services (if the application is for consumer credit) or to collect overdue payments.

- 19.8 **Cirrus** may obtain and use a consumer credit report about you from a credit reporting agency to assess your application for the Service (if it is for commercial credit) or collect overdue payments.
- 19.9 **Cirrus** may disclose information about you to other credit providers or obtain and use information from other credit providers for the purposes of assessing your application for the Service, your ongoing credit worthiness or the status of any account held by you with us or with any other credit provider.
- 19.10 **Cirrus** may refuse or cancel the supply of products or the **Services** on the basis of its credit assessment of you.
- 19.11 You consent to the collection, use and disclosure of Personal Information and Credit Information under this clause.
- 19.12 You may ask, by contacting **Cirrus** customer support staff:
- (a) to see the **Personal Information** and **Credit Information** that **Cirrus** holds about you, and **Cirrus** will grant you access to that **Personal Information** and **Credit Information** unless **Cirrus** is required or permitted to refuse such a request; and
 - (b) that **Cirrus** correct **Personal Information** or **Credit Information** that **Cirrus** holds about you if you think that it is not accurate, and **Cirrus** will correct any information that it agrees is inaccurate.

20. Disputes

- 20.1 You may complain about the **Services** in writing or by calling **Cirrus** customer support staff.
- 20.2 **Cirrus** will comply with its complaints procedure (a copy of which will be supplied to you on request) in trying to resolve your complaint.
- 20.3 If **Cirrus** cannot resolve your complaint to your satisfaction, you may refer your complaint to the **TIO**.

21. Email and Notices

- 21.1 **Cirrus** may delete e-mail sent to or by you if it remains on the **Cirrus** servers for more than sixty (60) days.
- 21.2 **Cirrus** may reject an e-mail message:
- (a) if the e-mail message is greater than 10 megabytes, or such other limit as may from time to time be set by **your Access Plan**; and
 - (b) if receipt of the message on the **Cirrus** servers would result in your mailbox storage exceeding 50 megabytes, or such other limit as may from time to time be set by **your Access Plan**.
- 21.3 Rejected mail will be returned to sender with a message along the lines of "mail exceeds mailbox quota".
- 21.4 **Cirrus** complies with the *Spam Act 2003* and if we send you promotional emails you will be able to reply and ask us not to send any more.
- 21.5 You may give **Cirrus** notices under this Agreement by:
- (a) pre-paid mail addressed to Cirrus at PO Box 1745 Gosford NSW 2250; or
 - (b) facsimile sent to (02) 4323 2177; or
 - (c) email addressed to support@cirruscomms.com.au; but notices given by facsimile or email are only taken to be received by **Cirrus** when they have been received in their entirety.
- 21.6 **Cirrus** may give notices to you under this Agreement at the address or facsimile number or email address set out in your **Application**.

22. Operational Contacts Under Business or Enterprise Plans

- 22.1 This clause 22 only applies if you are on a business or enterprise **Access Plan**.

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- 22.2 Unless you are a natural person, you must give **Cirrus** such details of at least 2 operational contacts as **Cirrus** may, from time to time, reasonably require.
- 22.3 You must give the contact details to **Cirrus**, and may change them, by such means as **Cirrus** may, from time to time reasonably require.
- 22.4 The operational contacts will:
- (a) have access to **Cirrus's** support and maintenance staff for the **Services**, and will be able to report faults and make requests for maintenance or support.; and
 - (b) be entitled to notify **Cirrus** of the persons to be added or removed as end users.
- 22.5 **Cirrus** is not required to respond to any contact in relation to the **Services** from a person who is not an operational contact, and whose details have been given to **Cirrus** in accordance with this clause.
- 22.6 **Cirrus** will not be liable to you for any consequences arising from **Cirrus's** non-compliance with a request made by a person who is not an operational contact.
- 23. General**
- 23.1 You warrant that:
- (a) the person who signed the **Application** is an individual who has attained the age of 18 years;
 - (b) you are authorised to enter into this Agreement; and
 - (c) all information that you provided in your **Application**, and all information that you may provide to **Cirrus** during the **Term** of this Agreement, is true and correct.
- 23.2 You acknowledge that:
- (a) information obtainable from the Internet may not be suitable for minors, and that **Cirrus** cannot control that information; and
 - (b) while **Cirrus** will try to provide you with a secure network and may notify you of security breaches they may affect you, **Cirrus** has no control over the behaviour of Internet users; and
 - (c) where your use of the **Services** uses services provided by third parties, the third parties are not liable to you nor are they required to pay you any loss, costs or damage resulting from their actions; and
 - (d) you have assessed whether you are able to receive the **Services**:
 - (i) by means of the procedure set out at the **Website**; or
 - (ii) by contacting **Cirrus** customer support staff.
- 23.3 To the extent permitted by law, **Cirrus** may monitor information that you transfer by means of the **Services**, and this information may be disclosed to third parties without notice.
- 23.4 **Cirrus** does not waive its rights under this Agreement unless the waiver is in writing and signed by an authorised representative, and any failure by **Cirrus** to act immediately on any right that it has under this Agreement does not waive that right.
- 23.5 Any provision of this Agreement that is void, voidable or unenforceable may be severed from this Agreement and the remainder of this Agreement will continue unaffected.
- 23.6 You may not assign your rights or obligations under this Agreement without the prior written consent of **Cirrus**, but **Cirrus** may assign its rights and obligations under this Agreement at any time without your consent.
- 23.7 **Cirrus** may pay a commission to a person who introduces you to the **Services**.
- 23.8 For the purposes of Section 22 of the *Telecommunications Act 1997* and of any regulations made for that section, the boundary of the **Network** is the outer surface of the wall plate installed as **Customer Equipment**.
- 23.9 This Agreement is governed by the laws of the State of New South Wales and you submit to the non-exclusive jurisdiction of the courts of that State.
- 23.10 The application of the United Nations Convention of Contracts for the International Sale of Goods is expressly excluded.
- 23.11 These Conditions are binding upon each of the parties' executors, administrators, successors and assigns.

23.12 **Cirrus** must not unilaterally determine or enforce a right or obligation under this Agreement without having provided you with a statement, in reasonable detail, of the relevant act, omission, condition of this Agreement, event or legislation (as the case may be) which gives **Cirrus** the right to do so.

24. Interpretation

24.1 In this Agreement:

- (a) words importing the singular number shall include the plural and vice versa, words importing a person shall include a corporation, firm, authority or unincorporated association and vice versa and words of each gender shall include each other gender;
- (b) any term, condition, representation or warranty contained or implied in this Agreement on the part of two (2) or more parties bind them jointly and each of them severally;
- (c) a reference to any legislation or instrument is a reference to that legislation or instrument as amended, consolidated, modified, re-enacted or replaced or otherwise in force from time to time.

DICTIONARY

In this Agreement:

Acceptable Use Policy means the **Cirrus** Acceptable Use Policy, as amended by **Cirrus** from time to time, which sets out rules and guidelines that you must comply with when you are using the Services.

Access Plan means a plan for Internet access and/or other functions or services published by **Cirrus** at the **Website** from time to time.

Additional Services means additional functions and services that may be made available to, or withdrawn from, you from time to time.

Application means the application you completed, in hard copy or at the **Website** or by telephone, to apply for the **Services**.

Charges means the fees and charges due to **Cirrus** in relation to the **Services**, and all other fees, charges, taxes and, without limitation, other amounts otherwise payable to **Cirrus** under this Agreement.

Cirrus means Cirrus Communications Pty Limited (ABN 87 109 931 731).

Consequential Loss includes:

- (a) loss of revenue, loss of profits, loss of anticipated savings or business, pure economic loss of data, loss of value of equipment (other than costs of repair), loss of opportunity or expectation loss and any other form of consequential, special, indirect, punitive or exemplary loss or damages; and
- (b) any penalties or fines imposed by a regulatory authority.

Credit Information means the following information about you:

- (a) personal identifying details, including your name, current and previous addresses, driver's licence number, date of birth and employer; and
- (b) the fact you have applied for all or any of the **Services** and/or **Additional Services**; and
- (c) the amount of payments which are overdue under this Agreement for at least sixty (60) days, when **Cirrus** has taken steps to recover those payments; and
- (d) where an overdue payment has been previously reported, advice that the payment is no longer overdue; and
- (e) information about any payments including cheques, credit cards and direct debits that have been dishonoured; and
- (f) court judgments or bankruptcy orders made against you; and
- (g) that, in **Cirrus**'s opinion, you have committed a serious credit infringement; and
- (h) when **Cirrus** ceases to provide products or services to you.

Customer Equipment means:

- (a) an outdoor mounted modem with an integral antenna and an Ethernet interface; and
- (b) cabling between the outdoor modem and an indoor RJ45 connector or wall plate; and
- (c) a power-over-ethernet power supply; and
- (d) one only 2 metre datacommunications cable with an RJ45 connector at each end.

Customer Support means the customer support described in clause 10.

Data Limit means the amount of data that you can receive at **High Speed** over our **Network** in any calendar month under **your Access Plan**.

High Speed means a speed of data transmission over the **Network** to your computer of up to the maximum transmission speed shown for **your Access Plan**.

Insolvency Event means:

- (a) bankruptcy proceedings are commenced against you, or you are declared bankrupt;
- (b) any step is taken to enter into any scheme of arrangement between you and your creditors;
- (c) any step is taken by a mortgagee to enter into possession or dispose of the whole or any part of your assets or

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business;

- (d) any step is taken to appoint a receiver, a receiver and manager, a trustee in bankruptcy, a liquidator, a provisional liquidator, an administrator or other like person to you or to the whole or any part of your assets or business;
- (e) you suspend payment of your debts generally; or
- (f) you are or become unable to pay your debts when they are due or you are or are presumed to be insolvent for the purposes of any provision of the *Corporations Act 2001* (Cth).

Interference means interference to, or with, radiocommunications that is attributable, whether wholly or partly and whether directly or indirectly, to an emission of electromagnetic energy by a radiocommunications or other transmitter.

Manufacturer's warranty in relation to any **Customer Equipment**, means the warranty given in relation to that equipment by its **Manufacturer** or the **Supplier**.

Minimum System Requirements means the computer hardware and operating system software from time to time shown on the **Website**, and that you must have:

- (a) before **Customer Equipment** may be installed; and
- (b) to be able to receive and use the **Services**; and
- (c) in order to receive **Customer Support**.

Modem means the modem supplied to you as **Customer Equipment**.

Network means the telecommunications network operated by **Cirrus** by means of which the **Services** are provided.

Personal Information means information, or an opinion, from which the identity of an individual can be established which includes your personal **Credit Information** or credit rating.

Premises means the **Premises** that you have nominated on your application form.

Primary Email Address means the email address from time to time set up as the first email address for the **Services** and is the email address to which **Cirrus** may send notices.

Privacy Act means the *Privacy Act 1988* (Cth).

Rate Card means the document that sets out the charges and other information for the **Services**, as amended by **Cirrus** from time to time.

Reduced Speed means a download/upload speed of 64/64kbps.

Services means the services described in clause 2.1, and includes the supply of **Customer Equipment**, and also any other goods or services supplied under this Agreement.

Supplier means a person who supplied the **Modem** to **Cirrus**.

Tax means any value-added or goods and services tax, withholding tax, charge (and associated penalty or interest), rate, duty or impost imposed by any authority but does not include any income or capital gains tax.

TIO means the Telecommunications Industry Ombudsman scheme referred to in the *Telecommunications Act 1997* for the resolution of disputes between consumers and the suppliers of telecommunications services.

Your Access Plan means:

- (a) the **Access Plan** that you nominated in your **Application**; or
- (b) the **Access Plan** to which **Cirrus** has most recently agreed you may change.

Your Premises means the **Premises** at the address that you have nominated on your application form.

Website means the website maintained by **Cirrus** at <http://www.cirruscomms.com.au>.