



AGREEMENT FOR SUPPLY OF SERVICES

Between

PowerTel Limited
(ABN 69 001 760 103)
("PowerTel")

And

[Customer Name]
(ABN Insert ABN)
("Customer")

PowerTel Limited

Level 11
55 Clarence Street
Sydney NSW 2000

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PART A: INTRODUCTION TO AGREEMENT FOR SUPPLY OF POWERTEL SERVICES

1. Under the Act, we may, in relation to the supply of our telecommunications services, either:
 - (a) contract on an individual basis with our customers; or
 - (b) contract with our customers by way of a standard form of agreement, the terms and conditions of which will apply to all customers who have not signed a separate written contract for the supply of the Service.
2. Unless you have entered into a separate written contract with us for the supply of the Service, the Service you are acquiring will be supplied in accordance with the terms of the Agreement.
3. The Agreement comprises:
 - (a) the relevant Application For Service signed by you requesting the Service;
 - (b) Part C, being the General Terms and Conditions on which we will supply the Service to you;
 - (c) Part D, the Service Schedules being a description of the Service and the Service specific terms and conditions;
 - (d) Part E, being the relevant Service Levels (if any) that apply to the Service; and
 - (e) Part B being the Definitions section of the Agreement.
4. A capitalised term in this Agreement shall, unless expressly defined herein or the context requires otherwise, have the meaning given to that term in Part B, Part C, Part D or Part E as applicable.

PART B: DEFINITIONS

In this Agreement, unless the context otherwise requires:

ACCC means the Australian Competition & Consumer Commission or any successor.

Access Site means the site address nominated in the Application For Service.

ACMA means the Australian Communications and Media Authority or any successor.

Act means the *Telecommunications Act 1997* (Cth) as amended from time to time.

Additional Site means any proposed additional Site specified in the Application For Service, for a further rack, racks or Co-located Equipment space for use by you.

Agreement means the General Terms & Conditions, the Definitions and Interpretation Section, the Service Schedules, the Service Level Agreements and any Application For Service.

Application For Service means the application document setting out the services requested and the information required by us to provision those services.

ATM means Asynchronous Transfer Mode.

Availability means a measurement of the percentage of total time that a Circuit is operative when measured over a 365 consecutive day (8760 hour) period from Service Delivery Point to Service Delivery Point.

Average Packet Loss means the ratio calculated over a calendar month of Packet loss to the number of packets successfully offered for transmission across PowerTel's network.

Average Round Trip Time means the average Round Trip Time measured over a calendar month.

Billing Dispute means an instance where you in good faith state that your bill contains incorrect charges, payments or adjustments.

Billing Dispute Notice means a notice issued pursuant to the Billing Disputes Procedure.

Billing Disputes Procedure means the procedure for the initiation and resolution of Billing Disputes set out in Schedule 1 to Part C.

Billing Enquiry means the situation where you seek information or clarification relating to an Invoice including without limitation seeking clarification of charges or sources of usage. For the avoidance of doubt, this is not a Billing Dispute.

Building means any building on the Land of which the Site forms part.

Building Owner means the registered proprietor of the Land.

Business Day means any day other than a Saturday, Sunday or public holiday in the state where the Services are delivered or in the case of a non-service specific reference to Business Day, such a day in New South Wales.

Capital City means a customer site location within 30km radial distance from a PowerTel exchange in the capital cities of Brisbane, Sydney, Canberra, Melbourne, Adelaide, and Perth.

Carrier means a carrier as defined in the Act.

Change in Control means where a relevant interest, as defined in the Corporations Act 2001 (Cth), in more than 20% of the securities of a party passes to a person or persons who did not have such relevant interest at the date of this Agreement (but this does not apply in the case of a public company whose securities are listed on a stock exchange).

Charges means the charges payable under this Agreement for provision of the Service including all Installation Charges, Recurring Charges and Usage Based Charges, and any other charges set out in the Application For Service.

Circuit means a physical or virtual link. For the avoidance of doubt, in respect of a Business Line Service the circuit is an analogue voice exchange line and in respect of any other voice service a physical link from the Service Delivery Point to the serving PowerTel Megapop.

CLI means caller line identification.

Co-located Equipment means all your fixtures, fittings, plant, machinery, cables and other telecommunications equipment located in the Building from time to time.

Commencement Date means the date you sign the Application For Service.

Competition Notice means a notice issued under Part XIB of the Act

Complaint means an expression of dissatisfaction or grievance made by you to an applicable authority including a Regulator, but does not include a request for information. A Complaint is not a Billing Dispute.

Conditional Ready for Service Date means a Ready for Service Date notified by us to you which is not marked “unconditional” and therefore our failure to meet such date will not entitle you to any Service Level rebates.

Conference means an audio conference call provided by using the PowerTel Teleconferencing Service.

Confidential Information means, in relation to a party,

- (a) all know-how, trade secrets, ideas, concepts, technical and operational information relating to that party or any of its Related Bodies Corporate (“**Group**”);
- (b) all information concerning the business affairs or property of that party or other members of its Group or any business, property or transaction in which that party or any other member of its Group may be or may have been concerned or interested (including without limitation this transaction and the contents of this Agreement);
- (c) any other information which, by its nature or by the circumstances of its disclosure, is or could reasonably be expected to be regarded as confidential to that party or other member of its Group (or any third party with whose consent or approval it uses that information);

but does not include any information:

- (a) which is publicly known or becomes publicly known other than by a breach of this Agreement;
- (b) which after being disclosed to the other party, is disclosed to that party again by a third party at liberty to disclose it to that party; or
- (c) is developed independently by the party to whom it is disclosed without reliance on any of the other party’s Confidential Information.

Contract means a contract formed between PowerTel and you pursuant to clause 1.1 of Part C for the supply and acquisition of the relevant Service.

CSP means the PowerTel customer service portal found at <http://www.powertel.com.au/>.

Current Supplier means a Carrier, a telecommunications service provider or equipment supplier who supplies services or equipment to you.

Customer means the person or entity whose name appears on the Application For Service and that party’s successors and permitted assigns.

Definitions means this Section B of the Agreement.

Determination means the *Telecommunications (Standard Form of Agreement Information) Determination 1999* (Cth).

DIA means Dedicated Internet Access.

Downgrade means any Variation in respect of the Service which results in a reduction in the total Charges payable for the Service.

Due Date means 30 days from the Invoice Date.

End User means any person or entity to whom you supply the Service or allow to use the Service.

Extended Access means any dedicated network or facility supplied by an Other Supplier used to extend the reach of PowerTel’s Circuit.

Facility means a facility used to provide PowerTel co-location Services.

Facility Access Charge means the relevant charge payable for access to the Site as set out in the Application For Service and Access Procedure.

Force Majeure in relation to a party, means:

- (a) any act of God or act of nature, fire, flood, storm, explosion, sabotage, riot, act of war whether declared or not or any other like event;
- (b) any requirement, prohibition or restriction of governmental authorities, inability or delay in the grant of governmental or other approvals, consents, permits, licences or authorities or any other like event;

- (c) any failure or delay, or other act or omission of the Customer or any third party (including third party Carriers and Carriage Service Providers), including cable cuts and failures to provide goods or Services or access to premises;
- (d) any strike, lockout, work stoppage or other industrial dispute of any kind;
- (e) unscheduled maintenance of our network or facilities in cases of emergency;
- (f) any other events or circumstances beyond the reasonable control of the affected party.

General Terms and Conditions means Part C of the Agreement.

GST and **GST Law** have the same meaning as defined in A New Tax System (Goods and Services Tax) Act 1999, subject to any amendments made pursuant to applicable rulings, determinations or advice issued by the Commissioner of Taxation or a decision from any tribunal or court.

IAD means Integrated Access Device.

IEEE means Institute of Electrical and Electronics Engineers.

Included Usage means as applicable the combination of upload and download Usage of PowerTel Broadband Internet Services or the download usage provided with a PowerTel Internet Access DSL or an Internet Access DSL Home Office service.

Installation Charge means a charge for labour, equipment, connection and associated cabling for initial installation of the Service set out in the Application For Service.

Installation Delay means that period of time (measured in Business Days) commencing on and from the Unconditional Ready for Service Date until the Service Start Date.

Intellectual Property means all rights conferred under statute, common law and equity in and in relation to trade marks, trade names, logos and get up, inventions patents, designs, copyright, circuit layouts, know-how and trade secrets and all rights and interests in them or licences to use any of them.

Integral Router means a standard router that is supplied by PowerTel as part of an integrated IPVPN product offering.

Internet Bandwidth means the capacity in Mbps of the your connection to the internet using the PowerTel Network.

Interference means any deleterious or potentially deleterious electrical, electronic or radiation effect to any person or property wherever located including any other telecommunications or communications equipment, any television, radio and medical equipment or electronic equipment, device or thing.

International Network means PowerTel's IP network both inside and outside Australia, including all PowerTel owned and operated IP routers and switches and any virtual links between them.

IPVPN means Internet Protocol Virtual Private Network.

ITU means International Telecommunications Union.

Invoice means a taxable invoice issued by us to you for the Services in accordance with clause 6.4 of Part C.

Invoice Date means the date of the Invoice.

LAN means local area networks.

Land means the land on which the Site is located.

Loss means costs, loss, damage, liability or expenses (including all legal costs on a full indemnity basis, fees and expenses).

MAN means Metropolitan Area Network.

Mean Time To Repair or **MTTR** means the mean time required by us to restore an Unavailable Service. The mean is taken over one calendar month.

Minimum Term means the minimum contract term (if any) specified in the Application For Service, which commences on the Service Start Date and if no Minimum Term is specified in the Application For Service then 30 days.

MRS means Managed Router Services.

National Network means PowerTel's IP network within Australia, including all PowerTel owned and operated IP Routers and Switches and any virtual links between them.

Other Supplier means a Carrier, a telecommunications carriage service provider or an equipment supplier other than us, as the case may be.

Outage means the period occurring when a Circuit (or in the case of Reach, the Service) is Unavailable.

Packet Loss means the unsuccessful transmission of data packets across the PowerTel network for whatever reason.

People means all employees, personnel, agents and contractors of the relevant party.

Permitted Use means the Co-locating of telecommunications equipment at the Site for the principal purpose of connecting to the PowerTel Network.

Personal Information means information or opinion about you from which your identity is apparent or can reasonably be ascertained.

Physical Connectivity means the Layer 1 and 2 connections between the customer and PowerTel's local Customer gateway router.

Planned Outage means a period of time, as reasonably determined by us, that we may interrupt our supply of the Service to you for routine maintenance, upgrading or other similar activities, after giving you reasonable prior notice.

PowerTel Equipment means equipment provided to you, or installed by us at, or located on, Your Premises for provision of the Service.

PowerTel Network means the telecommunications network and telecommunications services (including all PowerTel and other Carrier owned equipment) operated by PowerTel pursuant to the Act.

Provider means a party that discloses its Confidential Information to the other party.

PSTN means any network or facility supplied by an Other Supplier (including international terrestrial or satellite links) used to complete a call.

Ready For Service Date means the date that we expect to supply you the Service, which may or may not be the same as your Requested Delivery Date.

Recipient means a party that receives or obtains Confidential Information of the other party.

Recurring Charge means a monthly recurring charge set out in the Application For Service.

Regional means a customer site location within Australia that is not a Capital City.

Regulator means, as the case requires, the minister responsible for the administration of the Act, the ACMA, the ACCC, or any two or more of them.

Related Body Corporate has the meaning given by section 50 of the Corporations Act 2001.

Requested Delivery Date means your preferred date for installation of new Service specified in the Application For Service or your preferred date from when you wish for a Variation of the Service to be operational.

Round Trip Time means the period of time that it takes for a network packet to transit between a source and a target. In PowerTel's case the measurement of latency is undertaken by measuring the average time it takes a 64 byte network packet to travel from the source to the destination and back to the source. For the avoidance of doubt, the measurement includes the time required for the destination to process the message from the source and generate a reply.

Security means that amount (if any) advised by us to you and paid to PowerTel as a non interest bearing security deposit as security for amounts payable under this Agreement or an unconditional and irrevocable bank guarantee in favour of PowerTel, and any additional, replacement or alternative security amount determined in accordance with this Agreement.

Service means the relevant telecommunication service identified in the Application For Service.

Service Coverage Hours means our hours of operation for service response and restoration for a particular service as detailed in the applicable Service Level Agreement.

Service Delivery Point means the port, fibre termination panel or electrical interface, at the Access Site as we determine necessary for interconnection to the PowerTel Network.

Service Schedule means the description of the relevant Service and any Service specific terms and conditions set out in Part D of this Agreement.

Service Levels means the relevant service levels (if any) that apply to the Service as set out in the Service Level Agreement.

Service Level Agreement means the service level agreement relating to a Service as contained at Part E of the Agreement.

Service Start Date means the earlier of:

- (a) the date on which we first notify you that the Service is ready for use; and
- (b) the date on which you first use the Service.

SHDSL Service means a service supplied to the customer utilising copper infrastructure and a SHDSL modem that may be owned and/or supplied by PowerTel or another carrier contracted by PowerTel to supply the Service.

Site means the proposed co-location space in the Facility.

Tax means any tax (including GST), withholding tax, charge, rate, duty impost or other levy imposed by any authority (other than income or capital gains tax).

Unavailable means there is a loss of signal in respect of a Circuit rendering the Service completely unavailable for use by you or degraded to such an extent as to be rendered unusable by you.

Unconditional Ready for Service Date means a Ready for Service Date which we notify to you and mark “unconditional” which will entitle you to the applicable Service Level rebates if we fail to meet such date.

Usage is defined as MB and GB, either upload or download. A MB is 1024 X 1024 Bytes, a GB is 1024 X 1024 X 1024 Bytes.

Usage Based Charge means a monthly usage charge for utilisation of minutes or capacity including any minimum usage charge set out in the Application For Service.

Variation means any change, addition, increase or reduction in respect of the Service including a relocation or increase in bandwidth, and **Vary** has a corresponding meaning.

VLAN's means Virtual Local Area Network. A means by which LAN users on different physical LAN segments are afforded priority access privileges across the LAN backbone in order that they appear to be on the same physical segment of an enterprise-level logical LAN.

WAN means wide area network.

we, us, our, PowerTel means PowerTel Limited ABN 69 001 760 103.

you, your, yourself, customer means Customer and that party's successors and permitted assigns.

Your Equipment means, as applicable, all equipment and facilities supplied by you and used in connection with the Service including without limitation equipment that you own or lease.

Your Premises means the Access Site and any other premises occupied by you or your End User, to which we may require access in order to install, maintain or remove Equipment or the Service.

PART C: GENERAL TERMS AND CONDITIONS**1. PROVISION OF SERVICES**

- 1.1 We agree to supply and you agree to acquire the Service in accordance with the terms of this Agreement.
- 1.2 You acknowledge that you have relied on your own judgement to evaluate the suitability of the Service for the purpose for which you require the Service.
- 1.3 You may nominate in the Application For Service your Requested Delivery Date. After receipt of an Application For Service from you, we will issue you with a notice of acceptance or rejection for the Service. We will use all reasonable endeavours to meet your Requested Delivery Date for an accepted Service but we do not represent or warrant that we will deliver the Service by this date.

2. REBATES

- 2.1 Subject to clause 2.5, if we fail to meet your Requested Delivery Date and fail to meet the applicable installation target (if any) set out in the relevant Service Level Agreement, you will be entitled to a Service Level rebate in accordance with the relevant Service Level Agreement.
- 2.2 We will use all reasonable endeavours to meet the Service Levels for the Service and will undertake to provide the Service using all the reasonable skill and care of a competent carriage service provider. Subject to the provisions of this Agreement, if we fail to achieve the relevant Service Levels in any one month, you will be entitled to a rebate calculated in accordance with the relevant Service Level Agreement.
- 2.3 In order to claim a rebate, the Acquirer must log the rebate claim using the CSP no later than 90 days after the occurrence of the incident allegedly giving rise to the rebate and provide the PowerTel with the details requested on the CSP and the applicable forms contained therein in relation to the outage. A trouble ticket will be created and the Customer will be provided with a case reference number. The Customer must quote that case reference number for all future communications relating to the Customer's claim. We will promptly perform, or arrange to be performed, appropriate testing or other investigation to determine the location and cause of the fault or delay.
- 2.4 Any rebate potentially available to you is not redeemable for cash or cumulative, such that any rebate that is not claimed in whole or part for any one month in accordance with clause 2.3 cannot be accrued or carried forward in any way (either in whole or part) for any following or subsequent month(s).
- 2.5 You will not be entitled to a rebate pursuant to clause 2.1 or 2.2 where:
- (a) failure to achieve the Service Levels is caused directly or indirectly by, or arises from or in connection with:
 - (i) a Force Majeure Event;
 - (ii) a Planned Outage;
 - (iii) faults in an Other Supplier's network;
 - (iv) any act or omission by you or your agents, employees, invitees, contractors or other personnel;
 - (v) your Equipment; or
 - (vi) the exercise of our right to suspend the Service pursuant to clause 12.2 or clause 12.3(d);
 - (b) we have not confirmed an Unconditional Ready for Service Date under this Agreement; and/or
 - (c) the rebate claim is not submitted by you using the CSP within a 90 day period of the incident giving rise to the alleged rebate.
- 2.6 Subject to the above you may be entitled to rebates under this Agreement for among other things Installation Delays and Outages. Given the Customer's entitlements to these rebates, and pursuant to Part 5 of the Telecommunications (Customer Service Guarantee) Standard 2000 (No. 2) ("CSG"), the Customer has agreed to waive the protections and rights afforded to it under the CSG. These protections and rights contained in the CSG include statutory rebates for failure to meet certain stipulated times for the delivery and installation of Services and fault repairs. PowerTel can only offer you the sophisticated business orientated

Services under the terms of this Agreement at its discounted costs, and with the rebates described further below, on the basis that the Customer has agreed to waive its rights under the CSG.

3. PERIOD OF AGREEMENT

3.1 Each Application For Service signed by you (or submitted electronically in accordance with the terms of our online ordering system) and accepted in writing by us will form a separate Contract for the supply and acquisition of the relevant Service. The terms of this Agreement are incorporated into each Contract. The term of each Contract will commence on the Commencement Date and will continue for the Minimum Term and then on a month to month basis unless otherwise determined in accordance with the terms of this Agreement.

4. SUPPLY OF AND VARIATIONS TO SERVICES

4.1 You may at any time request a Variation to a Service. Where you request a Variation to a Service, the request must be in writing. We will be under no obligation to Vary the Service unless and until we receive and accept the request in writing.

4.2 You must comply with any reasonable instructions given by us, and provide all information and assistance reasonably required by us, in order to enable us to comply with any request or direction of a government agency, emergency services organisation or other competent authority for reasons of health, safety or the quality of the Service.

4.3 If you re-supply the Services to an End User you agree that, notwithstanding any other provision of this Agreement:

(a) you will be responsible for receiving from and responding to, the End User directly in relation to fault reports and other complaints or enquiries about the Services. You are solely responsible for billing, invoicing and collecting payments from that End User in respect of the Services and you will be liable for the Services regardless of the extent to which you are able to recover charges from the End User; and

(b) Notwithstanding any other term of this Agreement, in the event that PowerTel terminates a Service under clause 12.2 or clause 12.3, the Customer agrees and acknowledges that PowerTel may contact the End User(s) affected by the termination in order to ensure the continued supply of the Services to that End User via an alternate PowerTel wholesale customer.

5. CANCELLATION OF ORDER

5.1 You may cancel an Application For Service without liability prior to us issuing you with a notice of acceptance in relation to that Application For Service, provided that we have not incurred costs at your direction prior to our receipt of your cancellation notice.

5.2 Subject to clause 5.3, you may, prior to the date of first supply of the Services to you, by notice to us (“**Cancellation Notice**”) cancel an Application For Service which has been accepted by us (with the effect that we will have no further obligation to provide Services in accordance with that accepted Application and the accepted Application will cease to be of any effect).

5.3 Where you serve a cancellation notice under clause 5.2, you must reimburse us for all our costs (“**Connection Costs**”) incurred, or committed to, in connection with the cancelled Application For Service.

5.4 For the avoidance of doubt, the Connection Costs may include:

(a) cost of undertaking design work;

(b) costs of employees and subcontractors;

(c) costs of installing fibre tails;

(d) any costs incurred by us in enhancing the coverage and extent of our network (including “core build” costs);

(e) project management costs;

(f) costs of purchasing equipment, services or products from third parties;

(g) legal costs; and

(h) costs incurred in arranging for entry to a Site.

6. BILLING

6.1 You will pay to us the Charges in compliance with the payment terms in clause 7.

- 6.2 You agree and acknowledge that we may pass on any increases or special/once-off Other Supplier charges incurred by us without notice where such charges impact the cost of supply of the Services to you.
- 6.3 Subject to your rights under the Billing Disputes Procedure, you agree that:
- (a) the Services set out in the relevant Invoice were supplied to you; and
 - (b) the Charges set out in the relevant Invoice are accurate (absent manifest error) and payable by you.
- 6.4 We will endeavour to Invoice you monthly but reserve the right to invoice you at any time. For the avoidance of doubt we may:
- (a) select the billing date for the month and this is subject to change at any time in PowerTel's sole discretion;
 - (b) invoice you in whatever medium we choose (always acting reasonably); and
 - (c) choose to provide Invoices to you in e-mail form. In such circumstances you must provide us on request with a current e-mail address for this purpose and keep us informed of any changes to such e-mail address.
- 6.5 We will bill you:
- (a) in arrears for Usage Based Charges; and
 - (b) in advance for Installation Charges, Recurring Charges and all other Charges.
- 6.6 You will be liable for all Charges in respect of the Services commencing on and from the Service Start Date whether or not you use the Services from that date.
- 6.7 You will be liable for all Charges whether or not you authorised the particular use of the Services by another person.
- 6.8 We shall be entitled to set off in whole or in part any amounts due and payable by us to you, against the whole or a proportionate part of any amount due and payable by you to us under this Agreement.
- 7. TAXES, CHARGES AND PAYMENT**
- 7.1 For the avoidance of doubt and notwithstanding any other clause of this Agreement, Charges (including tariff plans) are subject to change on prior notice from us to you. Other than amendments to Charges permitted by the Agreement, Charges for Services the subject of a previously agreed Application For Service will be fixed for the Minimum Term of the Application For Service and will not retrospectively be changed. Subject to clause 7.2, at any time after expiry of the Minimum Term of a Service, we may vary the Charges for that Service upon 30 days prior written notice.
- 7.2 Where a minimum Usage Based Charge is provided for in the Application For Service or is otherwise agreed between us, that amount will apply even if you have incurred lower Usage Based Charges or no Usage Based Charges in that calendar month.
- 7.3 Subject to your rights to withhold payment pursuant to the Billing Dispute Procedure, you must pay all fees and Charges by the Due Date.
- 7.4 We reserve the right to charge interest on any part of the Charges or any applicable Tax not paid to us by the Due Date. Interest will be charged from the Due Date until payment at a rate equal to 3% above the Westpac 30 day bank bill business loan rate or such other comparable rate chosen by us most recently published before that date. You acknowledge and agree that this rate is a genuine pre-estimate of loss and damage suffered by PowerTel as a result of your late payment and is in no way a penalty. You will be liable to pay to us all reasonable expenses (including reasonable legal costs and expenses and the fees of our debt recovery agents) incurred by us in relation to recovering payments due under this Agreement.
- 7.5 The Charges for the Service are quoted exclusive of GST. If we become liable for any GST in relation to or in connection with this Agreement, we will charge an additional amount equal to the amount of the GST payable. Where GST is charged, we will provide a tax invoice, which will enable you, where permitted, to claim an input tax credit. Should the GST amount recovered by us from you in connection with any supply made differ to the GST liability either due to an amendment in the GST law or an adjustment to the consideration under this agreement, we will provide an adjustment note.
- 7.6 If any Taxes become paid or payable by us in relation to or in connection with this Agreement we will charge an additional amount equal to the amount of the Taxes payable.

- 7.7 Where we become liable to any penalties or interest as a result of the late payment of any Tax due to your failure or delay to comply with the terms of this Agreement (including this clause) or your obligations under any applicable law, then an additional amount equal to those penalties and interest will be payable to us.
- 7.8 You acknowledge and agree that we may at our discretion pay commissions to any of our agents, representatives or retailers who introduce you to us.
- 7.9 We will allocate payments from you in accordance with your advice at the time of payment. Failing receipt of that advice, we may, subject to us having issued you with a prior invoice, allocate that payment to any outstanding amount payable by you to us.

8. BILLING DISPUTES

- 8.1 If you start the Billing Disputes Procedure, we both must comply with the Billing Disputes Procedure.
- 8.2 For the avoidance of doubt, the Billing Disputes Procedure will only be applicable to a Billing Dispute and not a Billing Enquiry or Complaint.

9. GENERAL DISPUTES

- 9.1 The parties can seek to resolve any dispute which is not covered by clause 8 in accordance with this clause 9. If this clause is triggered by a party, then neither party may start court or arbitration proceedings except as allowed under this clause 9 or except to seek urgent interlocutory relief.

- 9.2 This clause 9 will only apply where written notice is issued by a party to the other party in accordance with clause 9.2(a). The procedure for resolving a dispute under this clause is:

- (a) first a party must give written notice to the other party about the nature of the dispute (referring to this clause 9) (“**Dispute Notice**”) and the parties must seek to negotiate a settlement within 10 Business Days of receipt of the Dispute Notice (“**Negotiation Period**”);
- (b) secondly, to the extent that the negotiations fail to settle the matter within the Negotiation Period, either party can request, in writing (the “Request”), to meet with the other party (the “Meeting”). The Request must be made within 10 Business Days after the expiration of the Negotiation Period. The parties shall as soon as reasonably practicable and in any event no longer than 10 Business Days after the date of the Request meet to agree on:
- (i) a non-litigation, non-arbitration procedure for resolving dispute (such as mediation, reconciliation or independent expert determination);
- (ii) the steps to be taken and when; and
- (iii) the identity of any independent person who will assist the parties and the terms on which that person is to be retained (including the basis on which the independent party’s costs are to be paid and by whom);

if either party fails to make the Request within the required timeframe or for any reason the Meeting does not take place within the required timeframe then the negotiations will be deemed to have failed and either party can commence court or arbitration proceedings to resolve the dispute; and

- (c) thirdly, if the parties are unable to reach agreement under clause 9.2(b) within the required timeframe or they do reach agreement and the agreed procedure does not culminate in a settlement of the entire dispute within 20 Business Days of the date of the Dispute Notice, either party may then commence court or arbitration proceedings to resolve remaining issues.

- 9.3 The parties will engage in the procedures detailed in clause 9.2(a) and clause 9.2(b) in good faith and on a without prejudice basis.

10. SECURITY

- 10.1 We may require Security (or additional Security, as the case may be) where:

- (a) we reasonably determine it necessary after considering:
- (i) your commercial creditworthiness;
- (ii) the value of the Applications for Services submitted by you;
- (iii) the estimated values of Services proposed to be ordered by you; or

- (iv) your current Usage;
 - (b) your monthly billing in respect of a Contract increases by more than 20% from the monthly billing contemplated at the date of the relevant Contract;
 - (c) you have failed to comply strictly with the payment terms set out in this Agreement; or
 - (d) previously provided Security is called on or enforced.
- 10.2 If we require Security pursuant to clause 10.1, you will provide the Security within 20 days of the date of our request. The parties acknowledge and agree that the 20 day period is deemed to be reasonable. The value of the Security must be equivalent to the amount we reasonably believe is necessary to secure our exposure under this Agreement.
- 10.3 We may exercise our rights under any Security in respect of any amounts payable by you to us under this Agreement or we may compensate ourselves for any loss, liability or expense suffered or incurred by us as a result of any breach of this Agreement by you. Our exercise of our rights under this clause in no way limits our right to recover the full amount of loss or damage suffered by us or our related parties should the Security be inadequate.
- 10.4 We reserve the right (but are under no obligation) to monitor your Service usage on a daily basis. We may suspend your Service if it is used in an excessive or unusual way provided we have taken reasonable steps to contact you prior to the suspension of the Service. Excessive or unusual use may include but is not limited to the following:
- (a) if you have a call that remains connected for an unusually long period of time; or
 - (b) where an unusually large volume of calls are being made from your Service.

11. CREDIT-WORTHINESS

- 11.1 To assess your Application For Services and to establish and manage your account, you consent to us disclosing to a credit reporting agency personal information relating to you in our possession, including but not limited to, information referred to in clause 11.2. Subject to our obligations under the *Privacy Act 1988* (Cth) and the Act, we may give this information to a credit reporting agency to obtain a consumer credit report about you.
- 11.2 We may disclose the following information relating to you in accordance with clause 11.1:
- (a) your name and address;
 - (b) details of your Application For Services and/or other Services supplied to you;
 - (c) credit limits on your accounts;
 - (d) the amount of any payments which are overdue for at least 60 days;
 - (e) where an overdue payment has been previously reported, advice that the payment is no longer overdue;
 - (f) cheques or credit card payments which have been dishonoured;
 - (g) information that, in our reasonable opinion, you have committed a serious credit infringement; and
 - (h) information that we have ceased to provide Services to you.
- 11.3 You agree that we may obtain information about you from any business that provides information about the commercial credit-worthiness of persons for the purposes of assessing your Application For Services and collecting any overdue amounts.
- 11.4 In addition, you agree, within 10 Business Days of our request, to provide to us, or any independent person nominated by us, any information we reasonably require to confirm your credit-worthiness including the information set out in clause 11.2.

12. SUSPENSION AND TERMINATION

- 12.1 After the expiration of the Minimum Term, either party may terminate the relevant Contract by giving 30 days written notice to the other, provided that such notice does not take effect on any day other than the last day of a calendar month or such other day as PowerTel may advise in line with its then current billing cycle.
- 12.2 We may without liability terminate any Contract, with immediate effect (or with effect from such later date as we may nominate) if:

- (a) you have failed to make a payment by the due date and you fail to make such payment within 5 Business Days of receipt of a notice requiring you to do so, except to the extent that such amount is permitted to be withheld pursuant to the Billing Dispute Procedures;
- (b) you have failed to provide the Security requested in accordance with clause 10;
- (c) we have reasonable grounds to believe that you represent a credit risk in relation to the Service; or
- (d) an Other Supplier changes the terms on which they supply the service to us (including changes to functionality, nature or underlying technology of a Service)
- (e) a Competition Notice which affects the subject matter of this Agreement is issued, or PowerTel reasonably believes that the ACCC is likely to issue such a Competition Notice, or a Regulator or court determines that any part of this Agreement contravenes the Telecommunications Acts or the Trade Practices Act;
- (f) the holder of an encumbrance granted by the Customer takes possession of the whole or a substantial part of the assets and undertaking of the Customer or it enters into a formal or informal compromise with its creditors;
- (g) the Customer fails to comply with a statutory demand issued by PowerTel under the Corporations Law;
- (h) the Customer has failed to provide information under clause 11.4 within the required time; or
- (i) PowerTel determines that the Customer is in breach of clause 21.

12.3 Either party (“**Affected Party**”) may without liability terminate any Contract with immediate effect from the date of service of a notice (or with effect from such later date as may be specified in such notice) if:

- (a) the other party (“**First Party**”) breaches a material obligation under this Agreement and the First Party fails to correct that breach within 14 days of written notice from the Affected Party;
- (b) an order is made or a resolution is passed for the winding up or dissolution (other than for solvent reconstruction or amalgamation) of the First Party;
- (c) an insolvency administrator is appointed to the First Party or in respect of the whole or a substantial part of its assets and undertaking;
- (d) the First Party is unable to pay its debts as and when they fall due;
- (e) Force Majeure substantially adversely affects the ability of a party to perform its obligations (other than an obligation to pay money) under this Agreement continuously for a period of not less than 15 Business Days; or
- (f) the Affected Party reasonably suspects fraud or misuse of the Service by the First Party.

12.4 We may without liability and with immediate effect suspend the Services under the relevant Contract:

- (a) to perform necessary maintenance or other service work in connection with a Planned Outage; or
- (b) to perform emergency maintenance work provided that the need for carrying out such work does not arise as a result of our negligent or unlawful acts or omissions;
- (c) in order to enable us to comply with any law, protect any person, equipment, or our network or to enable authorised persons to attend to any emergency;
- (d) in accordance with clause 10, and
- (e) in addition to (and without limiting) any right we may have to terminate this Agreement under clause 12.2 or clause 12.3(a).

12.5 If we suspend the Services pursuant to clause 12.4, you acknowledge and agree that:

- (a) you will pay our costs of reconnecting the Service (if applicable);
- (b) all outstanding Charges will become immediately due and payable, and
- (c) except in the case of Usage Based Charges, all Charges in relation to the Services will continue to accrue while suspended and will be payable by you.

- 12.6 You are entitled to terminate a Contract at any time prior to expiry of the Minimum Term by paying to us an amount calculated by multiplying the Recurring Charge payable by you under the relevant Contract by the remaining months (or part of the remaining months) of the Minimum Term.
- 12.7 You may Downgrade the Service at any time prior to expiry of the Minimum Term by:
- (a) giving to us giving to us 30 days written notice of your intention to Downgrade the relevant Service, provided that such notice does not take effect on any day other than the last day of a calendar month; and
 - (b) paying to us an amount calculated by multiplying the difference between:
 - (i) the Recurring Charge which you previously agreed to pay; and
 - (ii) the reduced Recurring Charge resulting from the Downgrade,by the remaining months, or part thereof, of the Minimum Term.
- 12.8 If we elect to exercise any right to terminate a Contract during the Minimum Term pursuant to this clause 12 (but excluding clauses, 12.2(d) and 12.3(e)), you must pay to us, by way of liquidated damages, the fee referred to in clause 12.6, which the parties acknowledge is a genuine pre-estimate of the losses which we will suffer as a result of early termination of that Contract. This clause 12.8 does not otherwise limit your liability to us upon termination.
- 12.9 On termination of any Contract, all Charges (including the fee referred to in clauses 12.6 and 12.8) payable under the terminated Contract(s) shall become immediately due and payable.
- 12.10 Termination of this Agreement or a Contract under clause 12.1 is without prejudice to the rights and obligations of the parties which accrued prior to the date of termination.
- 12.11 Termination of this Agreement and/or any Contract shall be without prejudice to the continued effectiveness of all provisions in this Agreement which, by their nature, survive termination.
- 13. OFFENCES & INDEMNITIES**
- 13.1 You must not use or permit any use of the Service:
- (a) to distribute material that is defamatory, offensive, abusive, obscene, menacing, threatening, harassing, or illegal under any law at any place where transmissions are sent from, viewed or received;
 - (b) to copy or distribute material where it has no right to do so (for example, someone else's copyrighted works or confidential information);
 - (c) to commit a crime or in the course of committing a crime;
 - (d) for an unlawful purpose;
 - (e) to do any act that may damage the network or systems or cause the quality of the Service to be impaired;
 - (f) to engage in any activities in such a manner as to expose PowerTel or an Other Supplier to liability; or
 - (g) to do any act that may damage the network or systems or cause the quality of the Services to be impaired; or
 - (h) in a manner that does not comply with the terms of any legislation or licence applicable to the Customer or that does not comply with any instructions given by PowerTel.
- 13.2 You must not, and must use reasonable endeavours to ensure that other persons do not interfere with, or attempt to interfere with, the operation of:
- (a) the Service;
 - (b) our network;
 - (c) the network of an Other Supplier that is interconnected to our network; or
 - (d) any equipment or facilities of ours associated with the Service.

- 13.3 You will indemnify us against:
- (a) all Loss (including consequential and indirect loss or damage) arising from or relating to a claim against us arising out of the death of or personal injury to our People, to the extent that such damage or loss is caused by a negligent act or omission, or an act or omission intended to cause death or personal injury, by you or any of your People;
 - (b) all Loss (including consequential and indirect loss or damage) arising from or relating to any damage to or loss of any equipment, network or other tangible property of ours or any third party to the extent that such Loss is caused by a negligent act or omission, or an act or omission intended to cause Loss, by you or any of your People;
 - (c) all Loss (including consequential and indirect loss or damage) arising from or in connection with a claim by a third party against us to the extent that the claim relates to any negligent or wilful act or omission of you or any of your People in relation to this Agreement; and
 - (d) all Loss (including consequential and indirect loss or damage) arising from any breach by you or your People of clauses 13.1 or 13.2.
- 13.4 If we use an Other Supplier in providing the Services, you will indemnify us for all Loss suffered by us as a result of a claim by you or a third party against the Other Supplier (excluding claims for death, personal injury or physical damage to tangible property) arising from or in connection with the supply or cessation of supply of the Services.
- 13.5 You will indemnify us for all Loss suffered by us as a result of a third party claim against us (excluding claims for death, personal injury or damage to tangible property) arising from or in connection with the supply or cessation of supply of the Services.
- 13.6 Without limiting any other term of this Agreement, you will release PowerTel from any and all Loss to the extent that such Loss or liability is caused by a negligent act or omission of you or any of your People.
- 14. LIMITATION OF LIABILITY**
- 14.1 To the extent permitted by law, the supply of Services under this Agreement will be governed exclusively by the terms of this Agreement (including its Schedules) and all other terms, conditions, warranties, undertakings, inducements or representations whether express, implied, statutory or otherwise relating in any way to the supply of Services under this Agreement are excluded.
- 14.2 Where any act of Parliament implies in this Agreement any term, and that act of Parliament voids or prohibits provisions under a contract which exclude or modify the operation of such term, the term is deemed to be included in this Agreement.
- 14.3 To the extent permitted by law, our liability for breach of any condition or warranty implied by law which cannot lawfully be excluded, whether in contract, negligence (or any other tort), under any statute or otherwise, is limited to one of the following remedies at our discretion:
- (a) if the breach relates to services, the resupply of the Services or the payment of the cost of resupplying the Services; or
 - (b) if the breach relates to goods, the repair or replacement of the goods or the payment of the cost of such repair or replacement.
- 14.4 Except as otherwise expressly provided in this Agreement (which includes your express liabilities for charges and payments under clause 7) and to the extent permitted by law, a party has no liability to the other party in connection with this Agreement for or in respect of any consequential loss, indirect loss, loss of profits of any kind, loss or corruption of data, interruption to business, loss of customers or customer losses, loss of revenue and economic loss of any kind, whether in contract, negligence or any other tort under any statute or otherwise.
- 14.5 To the extent permitted by law, the aggregate liability of a Party to the other Party in any 12 month period in respect of all claims arising out of or connection with this Agreement, whether in contract, negligence or any other tort, under any statute or otherwise, will not in any circumstances exceed the lesser of:
- (a) the aggregate amount paid or payable by you to us under this Agreement; and
 - (b) \$1 million.
- (“Liability Cap”)**

- 14.6 The Liability Cap will not apply to any of your obligations under this Agreement to pay Charges for Services or to liability under clauses 13.3, 13.4 or 13.5.
- 14.7 Unless expressly provided otherwise in this Agreement, your sole remedy for our failure to meet the Service Levels is your entitlement to rebates as specified in the relevant Service Level Agreement.
- 14.8 Without limiting the liability cap in clause 14.5, PowerTel's liability for your Loss under or in connection with the Agreement or the Service (whether based in contract, tort (including negligence), statute or otherwise) is reduced to the extent that your acts or omissions or your equipment (or the acts, omissions or equipment of a third person, including a Supplier) cause or contribute to that Loss.

15. YOUR EQUIPMENT & ACCESS

- 15.1 You must ensure that any of Your Equipment:
- (a) has all necessary regulatory approvals;
 - (b) is not prohibited by the ACMA;
 - (c) complies with all applicable regulatory standards;
 - (d) is approved by us; and
 - (e) is capable of operating with the Service.
- 15.2 We may require you to immediately cease using and disconnect Your Equipment or, if you fail to do so, we may disconnect Your Equipment from the Service, if:
- (a) there are faults with Your Equipment causing interference with the Service;
 - (b) you do not fulfil your obligations under this clause 15; or
 - (c) we reasonably consider that Your Equipment may:
 - (i) cause death or personal injury;
 - (ii) cause damage to our property or the property of a third party; or
 - (iii) materially impair the operation of our network or the network of an Other Supplier that is interconnected to our network.
- 15.3 You must use your best endeavours to do everything to assist us to provide the Service, including but not limited to:
- (a) notifying or obtaining any necessary permission from or co-operation of a Carrier or other person for the connection or maintenance of PowerTel Equipment or for the connection to your side of the Service Delivery Point; and
 - (b) allowing us (or where relevant, the lessor or licensor of the PowerTel Equipment to us) safe access to the PowerTel Equipment, Your Equipment and any of Your Premises at which a Service is to be provided during normal business hours and at such other times as the parties mutually agree.
- 15.4 You must ensure that the access provided is safe and in compliance with relevant health and safety regulations and requirement. We will ensure that our People comply with your reasonable directions while on Your Premises.

16. POWERTEL EQUIPMENT

- 16.1 Except as expressly provided by this Agreement:
- (a) you will bear the risk of loss or damage to any PowerTel Equipment used or located on Your Premises or whilst in your possession or control;
 - (b) the PowerTel Equipment always remains our property (or where relevant the lessor or licensors of the PowerTel Equipment to us);
 - (c) you will ensure that, you have all necessary consents and approvals (including landlord approval where applicable) necessary or desirable for us to deliver, install and maintain the PowerTel Equipment at the Access Site;
 - (d) you will not part with possession of the PowerTel Equipment except to us and will comply with all our reasonable directions relating to our rights of ownership of the PowerTel Equipment;
 - (e) you will provide a suitable physical environment at Your Premises for the storage and operation of the PowerTel Equipment including supplying an adequate power supply for the operation of the PowerTel Equipment;

- (f) you must ensure that the PowerTel Equipment will not be altered, repaired, serviced, moved or disconnected except by service personnel approved by us;
 - (g) you must take good care of the PowerTel Equipment while it is in your possession or control and must notify us immediately if you become aware of any damage to or malfunction of the PowerTel Equipment;
 - (h) you will be liable to us for all loss of, or damage to, the PowerTel Equipment while at Your Premises or whilst in your possession or control, apart from fair wear and tear; and
 - (i) you will only use the PowerTel Equipment in accordance with the manufacturer's specifications or our written directions.
- 16.2 We may at any time change, modify, replace or service the PowerTel Equipment provided that the performance of the Service is not materially adversely affected.
- 16.3 We may charge you for any repair, maintenance or replacement of the PowerTel Equipment due to events other than normal wear and tear, including but not limited to:
- (a) failure to use that PowerTel Equipment in accordance with this Agreement;
 - (b) any act of wilful damage or interference by a party other than us, our employees or agents;
 - (c) negligent use or misuse of that PowerTel Equipment by a party other than us, our employees or agents;
 - (d) any failure or fluctuation of the electrical power supply to that PowerTel Equipment, or any external electromagnetic interference or any failure of air-conditioning and humidity control for that equipment; or
 - (e) the performance of maintenance services by a party other than us or service personnel approved by us.

17. SOFTWARE LICENCE

- 17.1 Where we, without obligation to do so, elect at our discretion to supply you with the Products, you agree and accept the supply of the Products on the following terms:
- (a) For the purpose of this clause,
 - (i) **End User** means any person that you have authorised to use the Products;
 - (ii) **Powerserve** means Powerserve Pty Limited (ACN 069 037 056);
 - (iii) **PowerTel Billing Analyser** or **PBA** means the software provided by us to you for the purpose of analysis of our billing information issued to you; and
 - (iv) **Products** mean the PBA and related Products documentation.
 - (b) We grant to you a non-exclusive and non-transferable licence ("**Licence**") to use the Products. The Products may only be used by a single End User, on a single computer, at any one time. You must notify us if you wish to increase the number of End Users, in which case you will be required to obtain additional licences from us at an extra charge to be agreed.
 - (c) You will be entitled to make up to a maximum of three (3) copies of the PBA for back up purposes only and must include on each copy, all copyright and other notices included on the original. With the exception of the rights granted above, no right, title or interest in the Products will pass to you.
 - (d) You agree not to sub-licence, assign, transfer, alter, decompile, disassemble, reverse engineer, create derivative works from or recreate the PBA in whole or in part.
 - (e) This Licence will terminate immediately upon:
 - (i) you ceasing to be a customer of ours in respect of the Service; or
 - (ii) your breach of the terms of this Licence.

Upon termination of this Agreement, you must return to us, or delete and destroy, all copies of the Products.
 - (f) We do not warrant that the PBA will be error free. You acknowledge and agree that the billing information available for downloading is located on a PowerTel FTP server and that the FTP protocol does not encrypt the billing information;

- (g) To the extent permitted by law, and with the exception of third party claims relating to Intellectual Property infringement arising out of any negligent act or omission by us or PowerServe, we and PowerServe each exclude all liability whether in contract, tort (including negligence) or otherwise in respect of this Licence and the use of the PBA;
- (h) Upon reasonable prior written notice, you must provide us or PowerServe with sufficient information to enable us or PowerServe to independently verify that the number of licences granted to you corresponds to the number of End Users. In the event that the number of End Users exceeds the number of licences granted to you by us, you must, on demand, pay PowerServe an amount per excess End User equal to PowerServe's then current retail price for the Product;
- (i) You acknowledge that we have executed this Licence both on our own behalf and as agent for PowerServe; and
- (j) This Licence is subject to the governing laws in the state of New South Wales.

18. CARRIER SERVICES

- 18.1 If we use the services of an Other Supplier in providing the Service, you agree to comply with any reasonable direction given by us necessary to avoid causing any breach by us of the relevant Other Supplier's terms and conditions of supply applicable to that service.

19. INTELLECTUAL PROPERTY

- 19.1 We must not use your Intellectual Property without your prior written consent.
- 19.2 You acknowledge that our Intellectual Property and all goodwill associated with our Intellectual Property remains our sole property and no rights are conferred on you with respect to our Intellectual Property except as specifically expressed in this Agreement.
- 19.3 You must not use our Intellectual Property, including without limitation, the "PowerTel", "Simply Business" and the PowerTel logo trade marks, without our prior written consent.
- 19.4 Should we provide our consent under clause 19.3 (the "**Licensed Intellectual Property**"), you must:
- (a) use the Licensed Intellectual Property in the manner and form as directed by us from time-to-time;
 - (b) at all times clearly indicate on all promotional material that PowerTel is the owner of the Licensed Intellectual Property;
 - (c) immediately upon our request, cease using and return to us the Licensed Intellectual Property;
 - (d) not interfere in any way with our use and/or registration of the Licensed Intellectual Property;
 - (e) not assert ownership over the Licensed Intellectual Property; and
 - (f) not use any of our trade marks which form part of the Licensed Intellectual Property in a way which may dilute their distinctiveness.
- 19.5 Immediately upon the expiry or earlier termination of this Agreement, you must return to us all of our Intellectual Property and any other material owned by us (including data) which was provided to you in the supply of the Services.

20. FORCE MAJEURE

- 20.1 If a party is unable to perform an obligation (other than an obligation to pay money) under this Agreement ("**First Party**") by reason of Force Majeure, that obligation is suspended for the duration of the Force Majeure provided that the First Party:
- (a) gives the other party ("**Affected Party**") prompt notice of the details of the Force Majeure and an estimate of the extent and duration of its inability to perform; and
 - (b) takes all reasonable steps to remove that Force Majeure as quickly as possible.
- 20.2 Within 5 Business Days after receipt of a notice given under clause 20.1, the parties must meet to discuss in good faith a mutually satisfactory resolution to the Force Majeure suspension.
- 20.3 The requirement that a Force Majeure be removed with all possible diligence does not require the settlement of labour disputes or other claims on terms which, in the reasonable opinion of the party affected, are unreasonable.

21. CONFIDENTIALITY

- 21.1 The Provider retains all property rights in the Confidential Information.
- 21.2 The Recipient must:
- (a) take reasonable steps to enforce the confidentiality obligations imposed by this Agreement including diligently prosecuting at its cost, any breach or threatened or suspected breach of such confidentiality obligations by a person to whom the Recipient has disclosed the Confidential Information; and
 - (b) co-operate, and provide the Provider with all reasonable assistance, in any action which the Provider may take to protect the confidentiality of the Confidential Information.
- 21.3 The Recipient may only disclose Confidential Information (to the extent reasonably necessary):
- (a) to its legal advisers in relation to its rights under this Agreement;
 - (b) to its People:
 - (i) for the sole purpose of assisting the Recipient to meet its obligations under this Agreement and to effect the transactions contemplated by this Agreement on a need to know basis only; and
 - (ii) if each of the People who are provided with Confidential Information have signed a confidentiality undertaking imposing obligations no less stringent than those imposed on the parties under this Agreement.
 - (c) where such disclosure is:
 - (i) required by law; or
 - (ii) required by the rules of any stock exchange where the Recipient's securities are listed or quoted;
 - (d) in connection with legal proceedings between the parties relating to the confidentiality provisions of this Agreement. For the avoidance of doubt, unless otherwise provided for in this Agreement, the Confidential Information may not be disclosed in connection with any dispute or legal proceedings not related to this Agreement.
- 21.4 Where the Recipient becomes aware of any actual, suspected or threatened unauthorised disclosure or use of the Confidential Information it will promptly notify the Provider.
- 21.5 The Recipient acknowledges that a breach of this Agreement may cause the Provider irreparable damage for which monetary damages would not be an adequate remedy. Accordingly, in addition to other remedies that may be available, the Provider may seek and obtain injunctive relief against such a breach or threatened or suspected breach.
- 21.6 The Recipient's obligations with respect to the Confidential Information survive termination and bind the Recipient until the relevant Confidential Information has become part of the public domain other than as a result of a breach of this Agreement.
- 21.7 The Recipient will not use Confidential Information of the Provider, which the Recipient acquires from the Provider for any purpose which may cause the Provider loss, whether by way of damage to the Providers reputation, financial loss, or otherwise.
- 21.8 Neither party shall disclose the terms of this Agreement (including any Service Schedule) to any other person, except to its Representatives whose duties reasonably require such disclosure and on the conditions referred to in clause 21.3(b).
- 21.9 The Recipient must return the Provider's Confidential Information immediately upon request or otherwise immediately on termination of this Agreement.

22. PRIVACY

- 22.1 For the purposes of this agreement:
- (a) you agree to us collecting, using and disclosing personal information about you and your use of the Services in accordance with our privacy policy for:
 - (i) the purpose of assessing credit worthiness as outlined in clause 11.1;
 - (ii) all purposes associated with the provision of telecommunications Services to you and the management of your account;

- (iii) the purposes of communicating with you about products and Services which we or our partners or affiliates may provide to you;
 - (iv) the purpose of implementing this Agreement; and
 - (v) the purpose of complying with legal requirements.
- (b) we will comply with all relevant privacy laws in providing you with access to your own personal information. We reserve the right to charge a reasonable fee for the provision of this information. We agree to correct or amend any personal information held by us which is inaccurate or out of date, at your written request in accordance with privacy laws.
- (c) we will handle your personal information in accordance with the requirements of relevant laws and industry standards.
- (d) subject to compliance with this clause 22.1, we may, at any time in its absolute discretion:
- (i) intercept the Services or the data being transmitted over the Services, for the purpose of complying with its obligations at law; and
 - (ii) monitor use of the Services.
- (e) You acknowledge that if you refuse to provide personal information requested by us, we may not be able to provide the Services to you.

23. GENERAL

- 23.1 Further Assurances: Each party must sign all documentation and do all such things as the other party reasonably requires (at the other party's cost) to authorise or assist in obtaining consent or approval from any Government agency to the transactions contemplated in this Agreement.
- 23.2 Costs: Each party must pay its own costs in respect of this Agreement and the documents and transactions contemplated by this Agreement.
- 23.3 Assignment: You may not assign, novate, mortgage, charge, sublicense or otherwise deal with your rights, or subcontract or otherwise delegate any of your obligations under this Agreement without our prior written consent (such consent not to be unreasonably withheld). We may assign, novate or otherwise delegate all or any of our rights and obligations under this Agreement to a Related Body Corporate or any other person or entity.
- 23.4 Network Security: You are entirely responsible for implementing and maintaining the the security of your network. You will be liable to pay for any and all charges included on your Invoice which were incurred as a result of a breach of your network security including but not limited to where there is any unauthorised use of your network. For the purposes of this clause 23.4, unauthorised use means any use of your Services which is not authorised by you and includes use resulting from a viral infection of any computers or related equipment on your network, attacks from the internet, a denial of service attack, Spam and misuse of your Services by third parties including your employees.
- 23.5 Indemnities: The indemnities in this Agreement are:
- (a) continuing, separate and independent obligations of the parties from their other obligations and survive the termination of this Agreement; and
 - (b) absolute and unconditional and unaffected by anything that might have the effect of prejudicing, releasing, discharging or affecting in any other way the liability of the party giving the indemnity.
- 23.6 Waiver & Exercise of rights: A waiver by a party of a provision of or of a right under this Agreement is binding on the party granting the waiver only if it is given in writing and is signed by the party or an authorised officer of the party granting the waiver. A waiver is effective only in the specific instance and for the specific purpose for which it is given. A single or partial exercise of a right by a party does not preclude another exercise or attempted exercise of that right or the exercise of another right. Failure by a party to exercise or delay in exercising a right does not prevent its exercise or operate as a waiver.
- 23.7 Amendment: This Agreement may be amended only by a document signed by all parties.
- 23.8 Counterparts: This Agreement may be signed in counterparts and all counterparts taken together constitute one document.
- 23.9 Rights Cumulative: The rights, remedies and powers of the parties under this Agreement are cumulative and do not exclude any other rights, remedies or powers.

- 23.10 Consents & Approvals: A party may give its approval or consent conditionally or unconditionally or withhold its approval or consent in its absolute discretion unless this Agreement expressly provides otherwise.
- 23.11 Severability: If the whole or any part of a provision of this Agreement is void, unenforceable or illegal in a jurisdiction it is severed for that jurisdiction and the remainder of this Agreement otherwise has full force and effect. This clause has no effect if the severance alters the basic nature of this Agreement or is contrary to public policy.
- 23.12 Entire Agreement: This Agreement constitutes the entire Agreement of the parties about its subject matter and any previous Agreements, understandings, negotiations and representations on that subject matter cease to have any effect.
- 23.13 No Merger: The warranties and indemnities in this Agreement do not merge on termination of it.
- 23.14 Jurisdiction: This Agreement is governed by the laws from time to time in force in New South Wales and the parties unconditionally submit to the non-exclusive jurisdiction of the Courts in that state for determining any dispute concerning this Agreement.
- 23.15 Variation:
- (a) Due to the nature of the telecommunications industry, from time to time we may be required to change the terms of this Agreement. For example, an Other Supplier may change the terms or functionality of a service it supplies to us. The parties acknowledge and agree that the nature of the Services and the terms on which the Services are supplied to you may change.
 - (b) We will give you as much notice as practicable of any change to the terms and conditions of the Services prior to the date that those changes are to take effect. Notice for this purpose specifically includes posting a notification and the amended terms and conditions on the PowerTel website (www.powertel.com.au). If a change is detrimental we will give you notice in accordance with clause 7(2)(b) of the Determination.
 - (c) If you do not agree with any proposed variation (other than a variation pursuant to clause 6.2) then:
 - (i) either you or us can terminate the Service by giving notice to the other party which must take effect from the end of the next billing cycle (“**date of termination**”). Any such notice must be given to the other party within 30 days of the date we notify you of the change;
 - (ii) you will be liable for all Charges for the Service incurred up to and including the date of termination and all Charges must be paid in full on the date of termination; and
 - (iii) you will be liable for early termination charges in accordance with clause 12.6 unless:
 - (A) the proposed variation is detrimental and we have given you notice in accordance with the Determination; and
 - (B) you have complied with clause 23.15(c)(ii).
- 23.16 Notices: A notice, approval or consent, to be issued under this Agreement or a Contract must be in writing and in the absence of evidence to the contrary will be taken to be received:
- (a) if left at the address of the addressee, at the time it was left;
 - (b) if sent by ordinary post, on the third day after posting;
 - (c) if sent by express post, on the next day;
 - (d) if sent by facsimile, at the time recorded on a transmission report from the machine from which the facsimile was sent; and
 - (e) if sent by electronic e-mail, at the time the sending party receives a “return receipt” confirmation of successful transmission.
- 23.17 Interpretation
- In this Agreement, unless the context requires another meaning:

- (a) where a word or phrase is defined, its other grammatical forms have a corresponding meaning;
- (b) headings are for convenience only and do not affect interpretation;
- (c) a reference:
 - (i) to the word "including" or "includes" means "including, but not limited to" or "includes, without limitation";
 - (ii) to the singular includes the plural and vice versa;
 - (iii) to a gender includes all genders;
 - (iv) to a document (including this Agreement) is a reference to that document (including any Schedules) as amended, consolidated, supplemented, novated or replaced;
 - (v) to a party means a party to this Agreement;
 - (vi) to a notice means a notice, approval, demand, request, nomination or other communication given by one party to another under or in connection with this Agreement;
 - (vii) to a person (including a party) includes:
 - (A) an individual, company, other body corporate, association, partnership, firm, joint venture, trust or Government Agency; and
 - (B) the person's successors, permitted assigns, substitutes, executors and administrators;
 - (viii) to a law:
 - (A) includes a reference to any legislation, treaty, judgment, rule of common law or equity or rule of any applicable stock exchange; and
 - (B) is a reference to that law as amended, consolidated, supplemented or replaced; and
 - (C) includes a reference to any regulation, rule, statutory instrument, by-law or other subordinate legislation made under that law;
 - (ix) to proceedings includes litigation, arbitration and investigation;
 - (x) to a judgment includes an order, injunction, decree, determination or award of any court or tribunal;
 - (xi) to time is to Sydney time; and
 - (xii) to your acts or omissions, includes the acts or omissions of your employees, agents and contractors.
- (d) if there is any inconsistency between any of the terms of this Agreement, the order of priority for the purposes of construction is (from highest to lowest):
 - (i) the General Terms and Conditions;
 - (ii) the Definitions;
 - (iii) the Service Schedule;
 - (iv) the Service Level Agreement; and
 - (v) the relevant Application For Services.

PART C: SCHEDULE 1 TO GENERAL TERMS & CONDITIONS - BILLING DISPUTES PROCEDURE**PURPOSE**

This document sets out the obligations of the parties in resolving a Billing Dispute including lodgment, analysis and resolution of a Billing Dispute arising from the provision of Invoices to you by us.

You must notify a Billing Dispute to us in accordance with the process set out in this Schedule 1. Subject to section 1 below, any Charges recorded on an Invoice the subject of a Billing Dispute which is not submitted in accordance with this process is payable in full to us by the Due Date of the Invoice.

For the avoidance of doubt the parties acknowledge and agree that:

1. An amount that is not in dispute (“Undisputed Amount”) can not be withheld for any reason (including without limitation when that amount is on an invoice with a Disputed Amount) (defined below).
2. Only Billing Disputes can trigger the Billing Dispute Procedure (and the potential right to withhold payment of Disputed Amounts from us).
3. Billing Enquiries and Complaints are not Billing Disputes and do not trigger the Billing Dispute Procedure.

BILLING DISPUTE PROCEDURE**1. Notice**

In the event that you reasonably believe that you are not liable to pay a Charge in an Invoice, you may lodge a Billing Dispute Notice up to six (6) months from the date of the relevant Invoice. For the avoidance of doubt and in accordance with the Agreement, you cannot dispute a Charge on the basis that you did not authorise the particular use of the Services by another person. The Customer must lodge this Billing Dispute Notice using the CSP.

2. Withholding Payment

If you deliver the Billing Dispute Notice at least 5 Business Days prior to the Due Date of the Invoice, you may withhold payment of the Disputed Amount, otherwise you must pay the Disputed Amount and the Undisputed Amount (as defined below) by the Due Date in accordance with the terms of clause 7.3 of this Agreement.

3. Continuing Obligations

Subject to clause 2 of this Schedule 1, the rights and obligations of each party under the Agreement continue pending resolution of a Billing Dispute invoked under this Schedule. For the avoidance of doubt this includes that we continue to have the right to terminate or suspend the Service in accordance with our rights under the Agreement.

4. The Billing Dispute Notice

The Billing Dispute Notice must include, as a minimum, the following information:

- (a) Invoice number and date;
- (b) the amount in dispute (“**Disputed Amount**”);
- (c) the Undisputed Amount; and
- (d) details of the dispute:
 - (i) the Service or numbers used in connection with the Service relating to the Disputed Amount; and
 - (ii) dispute category and details (eg: missing details, terminated services, wrong account details and wrong addresses, incorrect charges).

5. Rejecting a Billing Dispute Notice

We have the right to reject a Billing Dispute Notice and will have no further obligations in relation to that Billing Dispute Notice if:

- (a) The Billing Dispute Notice is not received by us within 6 months from the date of the relevant Invoice;
- (b) The Billing Dispute Notice does not contain all of the information set out in clause 4 of this Schedule 1;
- (c) You have not made payment in accordance with clause 2 of this Schedule and do not have a right to withhold payment in accordance with clause 2;
- (d) We have confirmation from you that the dispute the subject of the Billing Dispute Notice has been resolved;
- (e) You are disputing the Charges on the basis that you did not authorise the particular use of the Services by another person; or
- (f) We reasonably believe that you do not have a bona fide dispute in relation to the Charges.

6. **Responding to a Billing Dispute Notice**

Subject to clause 5 of this Schedule 1, we must, within 10 Business Days of receipt, respond to the Billing Dispute Notice or notify you of a date upon which we will respond.

7. **Referral to Senior Management Committee**

If you are not satisfied with our response under clause 6 of Schedule 1 then you must notify us within 10 Business Days of receiving our response that you want the matter referred to the Senior Management Committee (“SMC”) (“SMC Request”). Subject to you complying with this clause 7 of Schedule 1, both parties agree:

- (a) to ensure that the SMC meet to resolve the dispute within 10 days of us receiving the SMC Request;
- (b) any agreement of the SMC must be unanimous; and
- (c) any unanimous decision of the SMC will be final and binding on both parties.

Both parties acknowledge and agree that if we do not receive a notification from you in accordance with this clause 7 then the Billing Dispute will be deemed to have been resolved and we will have no further obligations in relation to the Billing Dispute.

8. **Composition of Senior Management Committee**

For the purposes of this Agreement, the nominated members of the Senior Management Committee are:

PowerTel: PowerTel Account Manager

Customer: [.....]

9. **Expert Committee**

If the Senior Management Committee does not agree on a resolution to the Billing Dispute within 5 Business Days then you must notify us in writing on the 5th day that it wants the Billing Dispute to be referred to an Expert Committee (**EC Request**). Both parties acknowledge and agree that if we do not receive a EC Request from you in accordance with this clause 9 then the Billing Dispute will be deemed to have been resolved and we will have no further obligations in relation to the Billing Dispute.

10. **Composition of the Expert Committee**

The Expert Committee will comprise of:

- (a) a representative nominated by us;
- (b) a representative nominated by you; and

- (c) an independent person agreed between the parties who has expertise in the area of billing disputes in the telecommunications industry ("Independent Expert"). If the parties cannot agree on the Independent Expert within 5 Business Days of us receiving the EC Request, you may request that the Australian Commercial Dispute Centre ("ACDC") selects the Independent Expert. If you do not make a request to the ACDC within this timeframe then the Billing Dispute will be deemed to have been resolved and we will have no further obligation in relation to the Billing Dispute.

11. Procedure of the Expert Committee

The parties acknowledge and agree:

- (a) each member of the Expert Committee will be entitled to one vote;
- (b) a decision can only be reached if at least 2 members of the Expert Committee agree on a resolution;
- (c) the parties must use their best endeavours to ensure that the Expert Committee meets and reaches a decision in relation to the dispute within 15 Business Days of the appointment of the Independent Expert. If the Expert Committee is unable to reach a decision then:
 - (i) both parties have the right to bring legal proceedings in accordance with clause 13 of this Schedule;
 - (ii) PowerTel may commence legal proceedings for the recovery of any Charges the subject of the Billing Dispute Notice which have not been paid by you; and
 - (iii) we will also have the right to immediately suspend or terminate the Service pending resolution of the Billing Dispute by a court of law.
- (d) the Expert Committee must give reasons for its decision to the parties within 5 Business Days of reaching a decision;
- (e) before the Expert Committee meets, the parties must agree whether or not any decision of the Expert Committee will be final and binding on the parties except in the event of manifest error or fraud. If the parties are unable to agree the decision will not be binding; and
- (f) the costs of the Independent Expert and the performance of the Expert Committee will be shared by the parties provided that each party will bear the costs of its own legal counsel (if any) and representative

12. Agreement or Determination

- (a) If the SMC agree on a resolution or the Expert Committee reach a decision that you must make payment of disputed Charges, you must within 5 Business Days of the date of the determination pay the disputed amount together with interest calculated in accordance with the Agreement.
- (b) If the SMC agree or the Expert Committee reach a decision that we must withdraw the disputed Charge or refund a disputed Charge previously paid, we must, as soon as practicable:
 - (i) provide you as soon as practicable with an adjustment to your account reflecting the decision above. It is intended that this adjustment will appear on the next invoice issued to you (which you must pay in accordance with the agreement for services that you have with us) but the parties acknowledge that this may be delayed due to timing issues with the decision and our standard billing runs; and
 - (ii) credit any disputed amount already paid by you together with interest calculated on a daily basis from the date payment was received by us until reimbursed to you, at a rate equal to 3% above the Westpac 30 day bank bill business loan rate.

- (c) If the SMC agree on a resolution or the Expert Committee make a determination in accordance with clauses 12(a) or (b) subject to either party meeting the payment obligations under clauses 12(a) or (b) the Billing Dispute will be deemed to be resolved and we will have no further obligations in relation to the Billing Dispute.

13. Legal Proceedings

A party may not start legal proceedings in any court or start any arbitration in respect of a Billing Dispute unless:

- (a) the proceedings are for urgent interlocutory relief; and
- (b) the Expert Committee reaches a decision and the parties agreed prior to the matter being referred to the Expert Committee that its decision would not be final and binding.

14. Confidentiality

A party must not use any information obtained from the other party during the course of any dispute resolution process invoked under this Schedule for any purpose other than to resolve the particular Billing Dispute.

PART D (i): POWERTEL DATA SERVICE SCHEDULE

Unless expressly stated otherwise, a reference to a clause number shall be a reference to a clause contained in this Service Schedule.

1. GENERAL TERMS AND CONDITIONS

1.1 This Service Schedule incorporates the General Terms and Conditions and forms part of the Agreement.

2. POWERTEL DATA SERVICES

2.1 PowerTel's data Services comprise the following service categories ("Service Category"):

- (a) PowerTel Leased Line Services;
- (b) PowerTel Frame Relay Services;
- (c) PowerTel ATM Services;
- (d) PowerTel IPVPN Services;
- (e) PowerTel MRS; and
- (f) PowerTel Ethernet Services.

3. SERVICE DESCRIPTIONS

3.1 The following Service descriptions are provided for each data Service Category:

PowerTel Leased Line

PowerTel Leased Line is a permanent digital communications service that enables point to point delivery of traffic at dedicated bandwidths and throughput. PowerTel's Leased Line service supports a wide range of applications, the most predominant being private voice and data networking and Internet backbone connectivity.

PowerTel Leased Line is available at a variety of speeds ranging from 128kbps to 2.4Gbps and supports various electrical and optical interfaces.

PowerTel Frame Relay

PowerTel Frame Relay is a high-speed packet-switched data carriage service, designed for cost-efficient data transmission of intermittent traffic between LAN's and end-points in a WAN. PowerTel's Frame Relay service provides a permanent connection, with variable throughput, allowing the customer to leverage capacity on the PowerTel network. This service can be used to meet a wide variety of applications, including data, voice and video transfer.

PowerTel's Frame Relay services are delivered over a broad range of access speeds, ranging from 64kbps to 1984kbps. Interface options include V.35, X.21, and G.703/G.704.

PowerTel ATM

PowerTel ATM is a cell-switching and multiplexing technology that combines the benefits of circuit switching (constant transmission delay and guaranteed capacity) with those of packet switching (flexibility and efficiency for intermittent traffic). PowerTel's ATM service is composed of one access point at each customer site and at least one permanent virtual circuit ("PVC"), linking your various access points to the PowerTel network.

The PowerTel ATM service is a premium high-speed broadband service with transmission access speeds ranging from 64kbps to 155Mbps. PowerTel offers Constant-Bit-Rate ("CBR") and Variable-Bit-Rate non-real time ("VBR-nrt") Classes of Service.

PowerTel IP VPN

PowerTel's IP VPN service provides a corporate quality-of-service private IP-protocol networking solution based on an industry standards MPLS core, which provides any-to-any IP routing. A wide variety of access technologies are supported for connection to the network including PowerTel DSL, Frame Relay, ATM, Ethernet, and a number of Extended Access services including dial-up via ISDN. It allows any-to-any inter-connectivity between (intelligent) sites and supports multiple applications over IP protocols including voice, data, real time video and Internet based applications. It is MPLS (Multi Protocol Label Switching) based and is able to guarantee site-to-site quality of service for all transmission.

PowerTel IP VPN is available at speeds ranging from 64kbps to 155Mbps. It provides a choice of quality-of-service options: Transit-1, Transit-3, Dynamic-3 or Dynamic-6. Transit supports low-priority data traffic;

Transit-3 and Dynamic-3 support high, medium and low priority data; and Dynamic-6 supports high, medium and low priority data as well as delay-sensitive applications such as voice and real time video.

Integrated router and access options are also available which provide an IP VPN access service and fully managed and maintained PowerTel router solution at a uniform service assurance level.

PowerTel MRS

The PowerTel MRS is a complete solution designed to address the growing demand for bundled solutions in the corporate market. PowerTel MRS provides LAN to LAN connectivity and also enables businesses to outsource the communications, management and maintenance of their WAN.

PowerTel MRS supports service speeds of 64kbps to 155Mbps and encompasses a service design, transmission, via ATM or Frame Relay connections to the PowerTel network, Customer Premises Equipment, full management, maintenance and support for the service.

PowerTel Ethernet

The PowerTel Ethernet Service is a networking solution that can be provided across the MAN and WAN for customers to interconnect their existing Ethernet LAN's. The service is provided at one of three access speeds - Ethernet (10Mbps), Fast Ethernet (100Mbps) or Gigabit Ethernet (1000Mbps). Ethernet offers a wide range of bandwidth ranging from 2Mbps all the way up to 1000Mbps. The Ethernet service is available in 2Mbps increments up to an access speed of 10Mbps; in 5Mbps increments up to 100Mbps; and in 100Mbps increments up to 1000Mbps.

The features of the PowerTel Ethernet service are:

1. Point-to-point Point-to-multi-point connections (allowing fully meshed connections).
2. Intra-city and Inter-capital connections.
3. 2Mbps to Gigabit bandwidth (Gigabit access subject to a feasibility study).
4. Internet Access.

The PowerTel Ethernet Service is available for connection to business locations by PowerTel fibre or Extended access via third party suppliers. PowerTel Ethernet is available in the following cities:

- Brisbane
- Melbourne
- Sydney
- Canberra
- Adelaide
- Perth

Ethernet Standards

The Ethernet standard implemented by PowerTel is based on the IEEE 802.3 standard (10Mbps). It also incorporates the Fast Ethernet (100Mbps) standard - 802.3u - and Gigabit Ethernet (1000Mbps) standard - 802.3z.

Individual services on the Ethernet based network will be allocated individual VLANs for that service. VLANs enable separation of customer traffic to create metropolitan or inter-capital virtual private networks.

802.1q and ISL trunking (transparent VLAN services) are not supported.

4. SERVICE SPECIFIC TERMS & CONDITIONS

4.1 MRS: In respect of our Managed Router Service, you acknowledge that:

- (a) the Service will include the management of a PowerTel owned router at the relevant Access Site;
- (b) we will be responsible for management of the Managed Router Service up to the Ethernet port on each router located at Your Premises;
- (c) title to the router configuration files remains at all times with us; and
- (d) you must not make any changes to the configuration files without our prior written consent.

4.2 You will provide for each router, a dedicated analogue telephone line for the purpose of alternate and redundant management access to the relevant router.

4.3 General: In relation to the access speeds outlined above, you acknowledge and agree that while the speeds quoted above are Our best estimate, some variation may be experienced by you from time to time due to technical features of the specific service which may include without limitation packet loss.

PART D (ii): POWERTEL VOICE SERVICE SCHEDULE

Unless expressly stated otherwise, a reference to a clause number shall be a reference to a clause contained in this Service Schedule.

1. GENERAL TERMS AND CONDITIONS

1.1 This Service Schedule incorporates the General Terms and Conditions and forms part of the Agreement.

2. POWERTEL VOICE SERVICES

2.1 PowerTel's voice Services comprise of the following service categories ("Service Category"):

- (a) PowerTel ISDN Service ;
- (b) PowerTel 13/1300/1800 Reach Service;
- (c) PowerTel Long Distance Service;
- (d) PowerTel Teleconferencing Service;
- (e) PowerTel Transit Mapping Service; and

- (f) PowerTel Business Line Services.

3. SERVICE DESCRIPTIONS

3.1 The following Service descriptions are provided for each voice Service Category.

PowerTel ISDN

The PowerTel ISDN Service is a high capacity directly connected telephone and switched data service. PowerTel ISDN provides users with digital access to switched voice and switched data on a single integrated network connection. PowerTel provides the local access lines from a Service Delivery Point on your premises to the serving PowerTel MegaPop.

PowerTel ISDN Services operate according to the European ETSI ISDN standard and are available only as primary rate services. These services will work with customer equipment that conforms to ACMA technical standard TS038. An alternate variant of the service is also available that will work with customer equipment that conforms to ACMA technical standard TS014.

Local number porting enables customers to transfer existing service numbers from other suppliers to PowerTel when connecting to the ISDN service.

PowerTel Reach

The PowerTel Reach Service is a highly flexible inbound advanced calling service. Business customers use Reach services to enable their clients to call them at a subsidised call charge using 13, 1300 and 1800 prefixed numbers. Each Reach service has a single Reach service number that is either ten digits (of the form 1800 XXX XXX, 1300 XXX XXX) or six digits in length (of the form 13 XX XX).

Calls can be made by the public to Reach services from anywhere in Australia and can be terminated at customer-nominated sites anywhere in Australia or overseas. Generally, callers pay no call charge when calling Reach services prefixed with 1800 and pay not more than a local call charge when calling Reach services prefixed with 13 and 1300; exceptions apply for calls made from mobiles or from international locations.

Number porting enables customers to transfer existing 13, 1300 and 1800 service numbers from other suppliers to PowerTel when connecting to the Reach service.

PowerTel Long Distance

The PowerTel Long Distance Service is a long distance telephone service for locations that are not directly connected to the PowerTel Network. The Service can be used by means of either preselection or by use of a carrier override code to make calls to international numbers, Australian geographic numbers, Australian GSM and CDMA mobile phones (but not satellite mobile phones), selected operator services.

If the Service is used by means of preselection, all of the above calls on the nominated local access lines are automatically routed to PowerTel by default at your local exchange. If you use the Service by means of carrier override code, you must dial PowerTel's override code before the destination number for the above calls. It may be possible for your telephone equipment to store this override code and automatically prefix it to dialled numbers on appropriate calls.

PowerTel Teleconferencing

The PowerTel Teleconferencing Service is an audio facility that connects multiple parties into a telephone call by using a conference bridge.

The PowerTel Teleconferencing Service offers:

- no-booking teleconferences
- dial-in and dial-out calls
- automated teleconferences

The customer initiates a conference with the passcode that was issued at time of registration. Parties may join a conference by dialling a geographic telephone or freephone number via their telephone service provider. Alternatively, they can be dialled and connected to the conference. Specific PowerTel Teleconferencing services offer features that may include conference lock, operator assistance, participant count, self-mute, volume equaliser, message stop, name record, entry and exit tones.

Parties can join a conference from any location provided they are connected to a telephone network. A touchtone (DTMF) telephone is needed if automated services are required without the assistance of an operator.

PowerTel Transit Mapping Service

The PowerTel Transit Mapping Service is a static inbound calling service that enables customers to have a “virtual” telephone presence in cities remote from their office. Customers are assigned a geographic telephone number for each town or city where the Service is to be available. Calls made to those numbers upon reaching the PowerTel network in those towns and cities are routed by PowerTel to the distant location that the customer has specified as the answering location.

PowerTel Business Line Services

PowerTel Business Line is a 2-wire analogue PSTN service. A minimum of four Business Lines must be initially purchased for each site and retained thereafter during the term of the agreement.

PowerTel Business Line offers a number of standard and optional features, including

- Call Waiting;
- Call Forward (immediate, no answer or busy);
- Conference Call (3 way);
- CLIP;
- CLIR;
- Call Barring;
- Line Hunt (additional Charges apply);
- Hot Line (additional Charges apply);
- Hunt Group Call Forward No Answer; and
- Hunt Group Call Forward Busy

Local number portability enables customers to transfer existing service numbers from the Other Suppliers to PowerTel when connecting to the Business Line Service. Alternatively, PowerTel may allocate numbers for customer use if required.

The PowerTel Business Line Service is subject to a Minimum Term, and additional lines purchased thereafter will also be subject to the Minimum Term.

4. SERVICE SPECIFIC TERMS & CONDITIONS

4.1 ISDN: In relation to ISDN, you acknowledge and agree that:

- (a) the Usage Based Charge for ISDN is based on usage volume for either outgoing calls only or a combination of outgoing and incoming calls. For the avoidance of doubt, use of ISDN for incoming calls only, or where the combination of outgoing and incoming calls exceeds a ratio of 10 incoming calls for every 1 outgoing call, will be deemed misuse of ISDN for the purposes of clause 12.3(f) of the General Terms and Conditions;
- (b) the Usage Based Charge for ISDN local calls is based on a maximum call duration of 45 minutes. For the avoidance of doubt, use of ISDN for local calls exceeding 45 minutes in duration will be deemed misuse of ISDN for the purposes of clause 12.3(f) of the General Terms and Conditions; and
- (c) if you apply to port geographic service numbers from an Other Supplier’s service to an ISDN service (a process commonly referred to as local number portability), PowerTel does not warrant

or guarantee the feasibility or success of such a port or that numbers successfully ported to PowerTel are capable of being ported to any Other Supplier.

4.2 Reach: In relation to the PowerTel Reach Service, you acknowledge and agree that:

- (a) you must specify on the Application For Service if the Service is to be used regularly as a High Calling service;
- (b) A High Calling Service is a service where calls are generated on the PowerTel Reach Service at a rate of not less than 1 call per second for a duration of not less than 1 minute.
- (c) if the Service is not nominated as a High Calling service but you anticipate an event that will or may cause your usage of the Service to exceed the High Calling threshold, you must, as soon as possible, give to PowerTel prior written notice of such event.

4.3 Long Distance: In relation to the PowerTel Long Distance Service, you acknowledge and agree that:

- (a) if you use the Service by means of preselection, you may only use the Service as a bundled or combined service comprising of the following call types:
 - (i) long distance;
 - (ii) fixed to mobile, specifically GSM and CDMA mobiles and excluding satellite mobiles; and
 - (iii) preselectable operator services.

For the avoidance of doubt, you will not be able to use preselection for individual types of calls.

- (b) if you use the Service by means of a carrier override code, you may use the Service for individual calls of the following types:
 - (i) long distance;
 - (ii) fixed to mobile, specifically GSM and CDMA mobiles and excluding satellite mobiles;
 - (iii) preselectable operator services; and
 - (iv) local calls in selected areas and by prior agreement between the parties.

4.4 Teleconferencing: In relation to the PowerTel Teleconferencing Service, you acknowledge and agree that:

- (a) you are responsible for the security and proper use of all access codes and passwords used in connection with the Service and must take all necessary steps to ensure that they are kept confidential, secure, used properly and not disclosed to unauthorised people;
- (b) you must immediately inform us if there is any reason to believe that an access code or password has or is likely to become known to someone not authorised to use it or is being or is likely to be used in an unauthorised way;
- (c) you must not change or attempt to change an access code. If you forget, or your End User loses, a password or access code you must contact us and satisfy such security checks as we may operate;
- (d) we reserve the right to suspend access codes and password access to the Service if at any time we consider that there is or is likely to be a breach of security;
- (e) we reserve the right (at our sole discretion) to require you or your End User to change any or all of the passwords used by you in connection with the Service;
- (f) you must immediately inform us of any changes to the information you supplied when registering for the Service;
- (g) we have no way to confirm the identity of any End User and cannot verify that any such person is who he or she claims to be when requesting entry to a Conference. We will admit End Users who quote the correct password or reference number;
- (h) security measures for specific types of conferences are as follows:
 - (i) Dial-out service. The only participants connected to the Conference are those dialled at the request of the End User using telephone numbers provided by them (other than when a mixed dial-out / dial-in Conference has been requested); and
 - (ii) Automated Dial-in Access to the Conference is via a conference access code entered by the caller from a tone-dialling telephone. Participants who do not key in the correct access code are passed to the conferencing operator;

- (i) CLI screening, and voice encrypting are not supported;
- (j) while we will co-operate reasonably with your efforts to prevent and/or to detect unauthorised or fraudulent use of the Service, you are responsible for any fraudulent use of the Service. We do not guarantee that no unauthorised access or other End User fraud or misuse will occur;
- (k) you are liable to us for any use of the Service, regardless of whether you collect any amounts due from End Users;
- (l) we will keep a record of all Conference bookings for at least 3 months after the date booked for each Conference;
- (m) we will support reasonable requests from you for additional End User validation where your request can, in our opinion, reasonably and practicably be accommodated; and
- (n) we are not obliged to inform you of fraudulent or otherwise unauthorised use of the Service by End Users.

4.5 PowerTel Business Line Services:

- (a) You authorise us to act as the Customer Authority (CA) to enable us to purchase Unbundled Local Loop (ULL) or multiples of such and to disclose such authority to Other Carriers in response to a request; and
- (b) You acknowledge that each service will be subject to an SHDSL service qualification process and hence post application form signature PowerTel reserves the right to non delivery if service qualification process shows possibility of failure on delivery; and
- (c) You acknowledge that equipment to be connected to the PowerTel voice exchange lines must be ACMA approved for PSTN connection.
- (d) You acknowledge that the following operating conditions are not supported by PowerTel Business Line and may affect PowerTel Business Line service levels;
 - (i) Ring detection in Customer Equipment where the total Ringer Equivalence Number (REN) on a line is greater than 2.5.
 - (ii) End to end signalling via line conductors, Cailho or phantom circuits.
 - (iii) Data modems and facsimile Customer Equipment working at data signalling rates greater than 2400 bit/s.
 - (iv) Data modems and facsimile Customer Equipment not conforming to ITU-T Recommendations V.17, V.29, V.34 or V.90.
 - (v) Two (2) or more telephones or equivalent apparatus in the off hook condition at the same time.
- (e) Cancellation Fee: You may cancel your Business Line Service at any time prior to the Service Delivery Date by:
 - (i) (i) notifying us in writing; and
 - (ii) (ii) paying to us an amount of \$250.00.
- (f) You acknowledge and agree that if you apply to port geographic service numbers from the Other Supplier's service to the Business Line Service (a process commonly referred to as local number portability). PowerTel does not warrant such a port or that numbers can be successfully ported to PowerTel or vice versa.
- (g) You agree that you will make reasonable use of the Business Line Service. For the avoidance of doubt, it is unreasonable use of the Business Line Service if on average 95% of local calls made have a duration of 60 minutes or more on any particular Business Line. Such unreasonable use of the Business Line Service will be considered misuse and clause 12.3(f) of the General Terms and Conditions will apply.

5. **COMMON VOICE SERVICE SPECIFIC TERMS & CONDITIONS**

5.1 Transferring Voice Services From Current Supplier to PowerTel: If in providing voice Services we need to change your arrangements with your Current Supplier, you consent to the following procedures:

- (a) you authorise us to advise your Current Supplier that the voice Services are to be provided by us in place of your Current Supplier's services ("**Transferred Services**") and to sign on your behalf and

in your name forms of authority to your Current Supplier to transfer the provision of the voice Services to us;

- (b) if we request, you will give written instructions to your Current Supplier to transfer the voice Services from your name into our name;
- (c) you will immediately pay to your Current Supplier all amounts owing for the Transferred Services including alteration of charges which your Current Supplier may demand up to the time of transfer of those accounts; and
- (d) you acknowledge and agree that due to the nature of the number porting process no rebates or credits will be payable in relation to the delivery of Transferred Services.

5.2 Transferring Voice Services From PowerTel to Other Supplier: If you request us to transfer the voice Services provided to you to any Other Supplier:

- (a) you remain liable to us for the amount payable for the voice Services up to the time when we transfer those accounts to any Other Supplier. PowerTel's voice Services to you will cease when we transfer those accounts to any Other Supplier;
- (b) we will bill you for the voice Services within the following billing period or as soon as those charges become apparent to us;
- (c) we will, subject to clause 7.8 of the General Terms and Conditions, credit you with any amount credited to us by any Other Supplier for voice Services up to the date of transfer of those accounts to any Other Supplier.

5.3 Telephone Number: You acknowledge that you have no right, title or interest in any number allocated to you as part of the voice Services. We will comply with the National Numbering Plan and reserve the right to alter or replace any number as a result of compliance with the National Numbering Plan or with any direction from the ACMA. We will notify you of any numbering change, which will affect you.

5.4 Calling Line Identification: If you do not bar CLI in respect of calls made from the voice Services, when a call is made from the voice Services, your telephone number may be sent automatically to the equipment of the called party. You further agree that if a party calling the voice Services has not barred CLI from calls made from its equipment, the telephone number of the calling party may be displayed on the screen of your handset which receives the call, if the handset is technically capable of displaying CLI.

5.5 Installation Of Equipment:

- (a) You must assist us to ensure that any PowerTel Equipment necessary for you to receive voice Services and access the PowerTel network is installed and programmed so that calls to destinations nominated by us from time to time are, so far as possible, carried by the PowerTel switched services network.
- (b) You authorise us or will ensure authorisation for us or our agents to disconnect, install or make amendments to any autodiallers, keysystems or PABX programming at Your Premises or the premises of your End User in order for us to provide the voice Services.

5.6 In relation to the termination of fixed to mobile voice services, the Customer agrees and acknowledges that:

- (a) where the Customer selects "Primary Route All Calls" in the Application For Services, PowerTel shall use the standard route for the termination of all Customer calls;
- (b) where the Customer selects "Secondary Route Only " in the Application For Services:
 - (i) The Secondary Route may result in a slight degradation in the quality of service including (without limitation) a slight increase in "post dial delay" and the unavailability of Calling Line Identification;
 - (ii) Any degradation in quality of service referred to in clause 5.6(b)(i) above will not, in itself, constitute a fault under the PowerTel voice Service Level Agreement; and
 - (iii) There may be instances where the Secondary Route is unavailable or where the Secondary Route is congested and, therefore, PowerTel will return the traffic to the originating carrier for termination; and
- (c) where the Customer selects " Secondary Route All Calls" in the Application For Services:
 - (i) The Secondary Route may result in a slight degradation in the quality of service including (without limitation) a slight increase in "post dial delay" and the unavailability of Calling Line Identification for some calls;

- (ii) The degradation in quality of service referred to in clause 5.6(c)(i) above will not, in itself, constitute a fault under the PowerTel voice Service Level Agreement;
- (iii) There may be instances where the Secondary Route is unavailable or where the Secondary Route is congested and, therefore, PowerTel will re-route or overflow the traffic via the Primary (standard) route; and
- (iv) In the event that PowerTel is required to route or overflow the traffic via the Primary Route, then PowerTel reserves the right to apply the Primary Route rate to the termination of those calls.

PART D (iii): POWERTEL INTERNET SERVICE SCHEDULE

Unless expressly stated otherwise, a reference to a clause number shall be a reference to a clause contained in this Service Schedule.

1. GENERAL TERMS AND CONDITIONS

1.1 This Service Schedule incorporates PowerTel's General Terms and Conditions and forms part of the Agreement.

2. POWERTEL INTERNET SERVICES

2.1 PowerTel's internet Services comprise of the following service categories ("Service Category"):

- (a) PowerTel DIA;
- (b) PowerTel Business DSL (Internet) Services;
- (c) PowerTel Firewall Services;
- (d) PowerTel Broadband Internet Services ("**Broadband**");
- (e) PowerTel Internet Access DSL (previously known as PowerTel Dedicated xDSL); and
- (f) PowerTel Internet Access DSL Home Office

3. SERVICE DESCRIPTIONPowerTel Dedicated Internet

The PowerTel DIA is a cost effective permanent Internet connection. Designed for business and corporate customers, it allows for full access to the global Internet using an IP connection over several available physical connection methods at speeds ranging between 128 Kbps and 1Gbps. Service Level Agreements are offered on all access methods as well as the core IP network.

The physical connection methods supported are via PowerTel Data Services (Frame Relay, ATM, Ethernet and IP VPN). Frame Relay supports symmetrical connections with speeds ranging between 128 Kbps and 2 Mbps. ATM also allows for symmetrical connections but supports much higher speeds - up to 155 Mbps. Ethernet supports symmetrical connections between 128 Kbps and 1Gbps. Connection of IP VPN to DIA requires a PowerTel Firewall Service. Business Firewalls connect at up to 2Mbps, while Corporate and Premium Corporate Firewalls support from 512kbps to 100Mbps.

PowerTel Business DSL (Internet) Services

The PowerTel Business DSL (Business ADSL and Business SHDSL) services are permanent Internet connections via business grade ADSL and SHDSL technology. A range of symmetric or asymmetric speeds is available. Services may include a choice of modem or router. Service Level Agreements are offered on the access as well as the core IP network.

PowerTel Firewall Services

PowerTel offers a range of virtual firewall services as an adjunct to a Dedicated Internet or Business DSL Internet Service. A firewall service ("**Firewall**") means a service that allows a customer to specify rules (or policies) that determine which data traffic will be permitted (within the constraints of commercial security measures) to traverse between the Internet and the customer's Internet access service (or IP VPN).

Firewalls are not available with Enterprise SHDSL, Broadband Internet, Internet Access DSL, Internet Access DSL Home Office or Access Advantage. PowerTel's Firewalls provide commercial grade Internet security. A choice of Business, Corporate and Premium Corporate Firewalls is available to suit increasing levels of policy complexity. Business Firewalls connect at up to 2Mbps, while Corporate and Premium Corporate Firewalls support from 512kbps to 100Mbps.

PowerTel will use all reasonable endeavours to ensure the security of your network if you acquire Firewall services. Due to the nature of the internet and without limiting the General Terms and Conditions PowerTel excludes all liability to you (to the extent permitted by law) in relation to breach of security other than as a result of PowerTel's negligent act or omission.

PowerTel Broadband Internet Services

The PowerTel Broadband Internet Service is a dedicated SHDSL-based Internet connection designed for business customers. PowerTel Broadband Internet connections are symmetrical and available in speeds of 1Mbps and 1.5Mbps. Multiple Include Usage options are available. PowerTel Broadband Internet Services is also sold as Enterprise SHDSL.

PowerTel Broadband Internet includes the following standard and optional features:

- 10 email accounts; additional accounts are available (Charges apply);
- IP Usage Meter;
- Domain Name Services (additional Charges apply) in accordance with clause 5 of this Part; and
- Static IP addresses (clause 5 of this Part applies).

PowerTel Internet Access DSL (previously known as PowerTel Dedicated xDSL (Internet) Services)

The PowerTel Internet Access DSL services are permanent Internet connections via ADSL and SHDSL technology. A range of symmetric or asymmetric speeds is available. Services are offered as a bundle of access service and included (or prepaid) usage as well as unlimited usage variants. Services include a choice of a router or no equipment. Service Level Agreements are offered on the access as well as the core IP network.

PowerTel Internet Access DSL Home Office

The PowerTel Internet Access DSL Home Office services are permanent Internet connections via ADSL technology. A range of asymmetric speeds is available. Services are offered as a bundle of access service and included (or prepaid) usage. Services do not include equipment. Service Level Agreements are offered on the access as well as the core IP network.

4. SERVICE SPECIFIC TERMS & CONDITIONS

4.1 PowerTel Dedicated Internet, Business DSL, Internet Access DSL and Internet Access DSL Home Office: Upstream Charge: The Pre-paid Usage and Included Usage plan services are based on the amount of traffic you receive where you do not exceed a specified upstream threshold ratio of 2.5 times.

4.2 The threshold means the ratio in the each relevant calendar month, of the total Internet data traffic sent by you through the Service Delivery Point under this Agreement to the total traffic received by you through such Service Delivery Point. This ratio may not exceed 2.5. If the ratio exceeds the specified threshold, an upstream charge, in addition to the monthly Recurring Charge will be payable per Megabyte sent by you above the threshold. PowerTel may vary these charges and the ratio itself from time to time on notice to you of not less than 30 days.

4.3 Pre-Paid Usage means the usage provided with a PowerTel Dedicated Internet Access service, Business ADSL or a Business SHDSL service.

4.4 From time to time PowerTel may provide you with an indication as to whether or not DSL is available at a certain site. You acknowledge and agree that any such indication (often referred to as “prequalification”) is a guide only and that PowerTel is not liable for any loss or damage caused to you by you relying on such an indication.

4.5 PowerTel Broadband Internet Services:

(a) Packages: The PowerTel Broadband Internet Services is available in the following plans:

	Broadband Internet Speed	Broadband Internet Included Usage
A	1Mbps/1Mbps	500MB
B	1Mbps/1Mbps	3.0GB
C	1.5Mbps/1.5Mbps	5.0GB
D	1.5Mbps/1.5Mbps	10.0GB

The pricing for each plan will include an Installation Charge a fixed Recurring Charge and an excess usage charges per MB for Usage in excess of the Included Usage.

(b) Downgrades: If you select one of the above plans, you cannot change to another plan with a lower Recurring Charge during the Minimum Term. You may Downgrade your service in accordance with the terms set out in clause 12.7 of Part C - General Terms and Conditions.

(c) Upgrades: You can upgrade from one plan to another but a variation to the charges will apply.

(d) Email Accounts: An email administration account will be provided for use, allowing the setup of the requested number of email accounts upon order. You are responsible for your own email account administration. The email account has the following features:

(i) Supported Mail protocols are: POP and Web;

- (ii) The service includes up to 10 complimentary email accounts. Additional email accounts are available for purchase thereafter.
 - (iii) Recovery of mail from backup will only be performed in the event of system failure, not on request;
 - (iv) There is no limit on the size of emails received, however a practical limit of the size of the mailbox is implied and is subject to size limits at our discretion;
 - (v) We will endeavour to keep emails for a period of 10 days after mail accounts have been closed;
 - (vi) It is your responsibility for the final collection of all emails in the event of service cancellation; and
 - (vii) Forwarding of emails to other mail servers after service cancellation will not be performed.
- (e) **Usage Meter:** An IP Usage Meter is available for customer use through the PowerTel Customer Service Portal. This tool aids the monitoring and management of the monthly Included Usage. The Usage Meter has the following features:
- (i) Email Alerts may be sent to you when actual usage reaches 70%, 90% and 100% of the Included Usage amount.
 - (ii) We will use all reasonable endeavours to update the Usage every 4 hours at which time the total Usage will be calculated and compared.
 - (iii) Email Alerts are based on Usage calculated on the unrated uploaded and downloaded bytes for the current month.
 - (iv) The Usage Meter is intended to be used as a guide only, it may not be accurate and may not correspond to your final monthly bill amount.
- We do not guarantee for the successful delivery of email notifications. The receipt of the email notification by you will be subject to your email administration being up-to-date from time to time.
- (f) **Local Area Network (LAN) Configuration:** We do not provide and the service does not include technical support in respect of LAN configuration or with networking-related difficulties. Upon acceptance of the Application For Service, we will
- (i) provide you with an IAD which has functioning Internet connectivity;
 - (ii) invoice you for the relevant Recurring Charges for the PowerTel Broadband Internet Service; and
 - (iii) Make available on our website at www.powertel.com.au an IP Connectivity Guide (“**Guide**”), which contains details which you, your agent or your contractor may refer to for the purpose of connecting the IAD to your LAN and/or PC;
 - (iv) we will not accept liability for incorrect customer connection or equipment set up.
- (g) **IP Connectivity Guide:** We do not represent the accuracy or completeness of the Guide. We recommend that you read the Guide. It is provided for reference only and may not be applicable to you or your customer equipment.
- (h) **Customer Authority & Service Delivery Qualification:**
- (i) You authorise us to act as the Customer Authority (CA) to enable us to purchase Unbundled Local Loop (ULL) or multiples of such and to disclose such authority to Other Carriers in response to a request; and
 - (ii) You acknowledge that each service will be subject to an SHDSL service qualification process and hence post application form signature We reserves the right to non delivery if service qualification process shows possibility of failure on delivery.
- (i) **Cancellation Fee:** You may cancel your Broadband Internet Service at any time prior to the Service Delivery Date by:
- (i) notifying us in writing; and
 - (ii) paying to us an amount of \$250.00.

5. COMMON INTERNET SERVICE SPECIFIC TERMS & CONDITIONS

5.1 Additional Features: Unless expressly provided for in the Application For Service, internet Services do not include:

- (a) domain name server (DNS) and registration functions; or
- (b) Internet Protocol (IP) addresses.

Notwithstanding we may, in our absolute discretion and without obligation to do so, provide these services from time to time.

5.2 Disclaimers And Liability: You acknowledge and agree that:

- (a) while we may (without obligation to do so) configure the router with basic access lists, the Internet by its nature is not secure and we do not provide as part of the Internet Services, security features in the form of firewalls (unless specifically purchased as part of the service from PowerTel and noted on the Application For Service). Accordingly, you are responsible for providing for any security or privacy that you require for your computer networks and any data stored on those networks or accessed through the internet Services;
- (b) we may access and store certain content accessible through use of the Internet (known as caching) for fast and easy access by customers. That content is updated on a regular basis but there may be delays in that updating and therefore content accessed through the internet Services may not be the most up to date version;
- (c) neither we nor any Other Supplier exercise any control over the content accessible through the Internet;
- (d) subject to your rights under Part E and to the extent permitted by law, neither we nor any Other Supplier give any warranties, express or implied, in respect of the internet Services or have any other liability to you or your End Users in respect of the internet Services;
- (e) while the speeds quoted above are Our best estimate, some variation may be experienced by you from time to time due to technical features of the specific service which may include without limitation packet loss;
- (f) subject to your rights under Part E, neither we nor any Other Supplier, will be responsible for any damage that you may suffer arising from using:
 - (i) the internet Services (including loss of data, delays, non-deliveries, or mis-deliveries);
 - (ii) any content accessed through the internet Services (including inaccurate, incomplete or out of date information); or
 - (iii) inaccurate, incomplete or out of date information.

5.3 Domain Name Registration Services: Where we agree to provide DNS and registration services, you acknowledge and agree that:

- (a) PowerTel will register your Domain Name in its capacity as a reseller of Melbourne IT Limited (ACN 073 716 793);
- (b) you have read, understood and agree to be bound by the registration agreement with Melbourne IT Limited;
- (c) you have read, understood and agree to comply with the AuDA Policies and Melbourne IT Limited policies and other agreements including without limitation those found at <http://www.ada.org.au/policy> and www.melbourneit.com.au/policies/ including without limitation the AuDA Domain Name Policy, registration agreement, registration documents, Australian Domain Policy and the Dispute Resolution Policy, and;
- (d) you will provide full, accurate and up to date information in relation to each registered Domain Name.

PART D (iv): POWERTEL CO-LOCATION SERVICE SCHEDULE

Unless expressly stated otherwise, a reference to a clause number shall be a reference to a clause contained in this Service Schedule.

1. GENERAL TERMS AND CONDITIONS

1.1 This Service Schedule incorporates the General Terms and Conditions and forms part of the Agreement.

2. POWERTEL CO-LOCATION SERVICES

2.1 The following Service description is provided for PowerTel Co-location Service.

PowerTel Co-location is a secure facility designed specifically for business and corporate customers to house their telecommunications and IT equipment, with extensive facilities for network connectivity to PowerTel network services.

PowerTel's Co-location provides secure space and power within a PowerTel Point of Presence. Co-location space is provided by 19-inch racks and depending upon the equipment housing requirements may utilise either whole or half racks, half-racks or quarter-racks. Access to your Co-Location space is controlled and is restricted through the use of security access cards and/or accompanied access. Network access to PowerTel is available using a range of voice, data and Internet Interfaces. Power options include AC and DC with battery and/or generator redundancy. Air conditioning is supplied by redundant cooling towers and conditioning units.

The 240volt AC supply to the customer cabinets is provided by 2 UPS fed from commercial mains. In the event of commercial mains failure, each UPS has an independent battery supply to sustain power until such time as the diesel comes online.

If a PowerTel Point of Presence where Co-location is being undertaken changes for any reason, notwithstanding any provision of this Agreement or any such other agreement entered into between the parties, You acknowledge and agree that You will be responsible for all charges associated with such relocation. These charges may include, without limitation, the costs of any associated outages. For the avoidance of doubt, You will not be liable for the reasonable charges specifically related to the re-installation of the collocation equipment into any new facility operated by Us. We will determine the amount of these charges (if any) in our sole discretion. We undertake to use reasonable endeavours to minimise any costs and delays to You associated with any relocation of Our Co-location facilities.

We must use all reasonable endeavours to:

- (a) maintain the Facility in good repair;
- (b) ensure that all PowerTel customers who acquire co-location services equivalent to the Customer's do so on terms no worse than those agreed to by the Customer. For the avoidance of doubt, the pricing of the Services is excluded from this requirement.

3. SERVICE SPECIFIC TERMS & CONDITIONS

3.1 Site Access:

- (a) We will from time to time provide you with documentation (or links to documentation) relating to the procedure for arranging access to the Site ("**Access Procedure**"). We may amend this in our sole discretion and you must comply with this Access Procedure at all times.
- (b) We will, during the Minimum Term, provide you and your authorised representatives with access to the Site and to the Facility (for the purpose of accessing the Site) solely for the Permitted Use, subject to:
 - (i) prior notification of requested Facility Access in accordance with the Access Procedure;
 - (ii) payment of the relevant Facility Access Charges;
 - (iii) compliance with all reasonable security and access regulations and rules of conduct as notified by us from time to time; and
 - (iv) compliance with any Facility access rules made by the Building Owner in relation to the Building and either notified to you or displayed in the Building.
- (c) You must provide us with a minimum period of prior notice of required access by appointment in accordance with the Access Procedure or such other procedure as notified to you from time to time.

- (d) We reserve the right to cancel any appointment for scheduled access to the Site where you are late by not less than 15 minutes. Notwithstanding cancellation of such appointment, you will remain liable for any relevant Facility Access Charges.
- (e) Nothing in this Agreement shall prohibit us from performing any construction or material alterations within a Facility and/or Site or erecting or permitting others to erect transmission equipment of any nature whatsoever in, under, or on the exterior of, the Building provided it will not cause Interference and, at our request, you will co-operate with us and any third parties in respect of the terms of this clause.
- (f) Where the alterations are made at your request, or for your sole benefit, we will charge you for the work at rates to be mutually agreed by the parties prior to the commencement of the work.
- (g) You warrant that you have not been induced to enter into this Agreement by any express or implied statement, warranty or representation made by, or on behalf of, us in respect of the Site or quality of any signal transmitted to or received by the Co-located Equipment when it is installed on the Site, other than the suitability of the Site for connecting Co-located Equipment to the PowerTel Network.

3.2 Charges, Billing & Reviews

- (a) We will invoice you in arrears for Facility Access Charges. We will invoice for all other Charges in accordance with clause 6 of the General Terms and Conditions.
- (b) You must pay to us all Charges in accordance with clause 7 of the General Terms and Conditions.

3.3 Utility Services

- (a) The Charges for the Co-location Service is inclusive of standard utility service fees. These fees include standard electricity requirements as specified in the Application For Service.
- (b) If there is a loss, failure or interruption of electricity supply to the Building which is not caused directly by us:
 - (i) we are not liable for any resulting liability, loss, cost or damage suffered or incurred by you;
 - (ii) you are not entitled to determine the Agreement and have no right of abatement or set off of the Charges or other money; and
 - (iii) you have no claim for compensation or damages against us.

3.4 Installation Of Co-located Equipment:

- (a) Before commencing installation of the Co-located Equipment on the Site, you must:
 - (i) give to us detailed plans and specifications and any other information reasonably requested by us in respect of the installation and use of the Co-located Equipment and obtain our consent to such plans and specifications;
 - (ii) obtain our approval to the type of Co-located Equipment and proposed time and date for installation of the Co-located Equipment. We may not unreasonably withhold or delay our approval;
 - (iii) obtain all necessary consents and approvals of all relevant authorities;
 - (iv) provide us with a certificate of currency in respect of the insurance cover requirements set out in clause 3.8;
 - (v) if we request, obtain our consent to the contractors whom you intend to use to install the Co-located Equipment; and
 - (vi) where you require any auxiliary services (which require circuit connection), reserve at least two (2) Rack Units for the PowerTel Network termination unit and power-point. A Rack Unit is a purpose built 1 ¾ inch section of the Site.
- (b) You must, at your cost, install the Co-located Equipment:
 - (i) (i) in accordance with any plans and specifications approved by us pursuant to clause 3.4(a);
 - (ii) as approved by PowerTel under clause 3.4(a) and at the time and date confirmed by you;

- (iii) notify us immediately on completion of the installation of the Co-located Equipment;
- (iv) in a good and workmanlike manner;
- (v) without interfering or disturbing other occupiers of the Building;
- (vi) in accordance with the previously obtained consents and approvals of all relevant authorities (if required);
- (vii) in accordance with all laws and the requirements of all authorities including all applicable Australian standards and occupational health and safety legislation;
- (viii) if required by us, in liaison with and under our supervision or any consultant engaged by us; and
- (ix) in accordance with our other reasonable requirements and directions, and the requirements and directions of our consultants.

3.5 Maintenance, Repair & Alteration: You must:

- (a) maintain the Co-located Equipment and the Site in good repair, order and condition throughout the term of the Agreement (having regard to the condition of the Site at the Commencement Date), subject only to fair wear and tear, and damage by fire, flood, lightning, storm, other Acts of God or war. You shall not be obliged to do any work of a structural or capital nature, unless rendered necessary by reason of the Permitted Use or by your negligent act or omission or the negligent act or omission of your agents, employees or contractors;
- (b) promptly repair any damage to the Co-located Equipment;
- (c) maintain the Site in a safe condition and not store or use chemicals, inflammable liquids, acetylene, gas, alcohol, volatile or explosive oils, compounds or substances or any potentially dangerous, noxious or harmful materials of any kind; and
- (d) not make any construction changes or material alterations to the interior or exterior portions of the Site or locate any Co-located Equipment outside of the Site, without first obtaining our prior written approval.

3.6 Your Obligations: You must:

- (a) not load or install on the Co-located Equipment any software products or services which have or are capable of any of the following functionality:
 - (i) which will test the security of a server or the security of other servers on the Internet or within the PowerTel Network, except the Co-located Equipment;
 - (ii) which will scan another server or confirm or check what transmission control, user datagram or internet protocol services, are running;
 - (iii) which will examine the contents of packets not destined for the server on which the software resides;
 - (iv) which will attack or gain or attempt to attack or gain:
 - (A) unauthorised access to machines on the Internet or within the PowerTel Network; or
 - (B) unauthorised data from machines on the Internet or within the PowerTel Network;
- (b) not use the Co-located Equipment for the purpose of:
 - (i) sending unsolicited mail, advertising material or any other material of an offensive, obscene or indecent nature, or otherwise contrary to law or an applicable code of conduct;
 - (ii) disseminating unlawful content;
 - (iii) engaging in false or misleading marketing strategies;
- (c) not install or use the Co-located Equipment or install software on the Co-located Equipment which is capable of disrupting Internet protocols, services or Internet servers;

- (d) comply with all federal, state and local authority laws, orders, rules and regulations applicable to the Co-located Equipment including any requirements from time to time of our insurers or our reasonable requirements, and obtaining and keeping current all necessary consents and approvals;
- (e) not disrupt, adversely affect or interfere with other providers of services in the Building, or with any occupant's use or enjoyment of premises or the common areas of the Building;
- (f) comply with any rules or regulations of the Building notified by PowerTel to the Customer;
- (g) promptly, when asked, do everything you can reasonably be expected to do to enable any person having an interest in the Site superior or concurrent with your interest, to exercise that person's rights under the Agreement.

3.7 Our Rights: We may:

- (a) upon endeavouring to give you as much notice as is reasonably practicable in the circumstances (having regard to the severity of the problem), disconnect the Co-located Equipment from the PowerTel Network if:
 - (i) the Co-located Equipment has been breached by an intruder and is being used as a launch point to attack, infiltrate or disrupt other systems in the Internet or the PowerTel Network;
 - (ii) the Co-located Equipment is causing interruption to the PowerTel Network, either intentionally or unintentionally;
 - (iii) there exist unforeseen circumstances where we deem it necessary to disconnect the Co-located Equipment including, but not limited to, fire and evidence of breach by an external party;
- (b) in the case of an emergency, access the Co-located Equipment provided that we use reasonable care or may call upon appropriate emergency services for assistance and you will not hold us responsible for such access;
- (c) inspect the Site and the Co-located Equipment at any time to satisfy yourself that you are complying with your obligations under the Agreement; and
- (d) rectify any default by you of any of your obligations under the Agreement and you must immediately reimburse us for the costs of the rectification.

3.8 Insurance & Risk

- (a) You must take out and maintain insurance with a reputable insurer in respect of public liability insurance in an amount of at least \$20 million for any single event.
- (b) You must:
 - (i) if requested by us, give to us a copy of the insurance policy and/or a certificate of currency issued by the insurer for any policy referred to in clause 3.8(a) within 14 days of receipt of such request;
 - (ii) not do or allow anything to be done at the Facility which may increase the premium payable for any insurance concerning the Facility;
 - (iii) not do or allow anything to be done which prejudices any insurance concerning the Facility; and
 - (iv) not without our prior written consent, vary, cancel or allow to lapse any insurance referred to in clause 3.8(a).
- (c) You acknowledge and agree that:
 - (i) you and your servants, agents and invitees enter the Land and Building, and access the Site at your own risk;
 - (ii) the Co-located Equipment remains at your risk at all times; and
 - (iii) you are responsible for insuring the Co-located Equipment.

3.9 Interference

- (a) If we are reasonably satisfied that the Co-located Equipment is causing unacceptable Interference to, or may cause unacceptable Interference, you must immediately, at our request and at your cost, rectify and remove the source of the Interference.

- (b) If you do not rectify the Interference to our reasonable satisfaction within 2 days of receiving our request under clause 3.9(a), we may terminate the Agreement and/or Contract by written notice to you.
- (c) You shall not have any right or claim for compensation against us as a result of any termination pursuant to this clause.
- (d) Any termination pursuant to this clause shall be without prejudice to any action or remedy which one party may have against the other for any prior breach of that other party's obligations under the Agreement as at the date of termination.

3.10 Removal Of Co-located Equipment

- (a) Immediately after the last day of the Minimum Term or within 5 Business Days of early termination of this Agreement and/or the relevant Contract for whatever reason you must:
 - (i) at your cost, remove all Co-located Equipment from the Site; and
 - (ii) make good all damage caused by reason of such removal (having regard to the condition of the Site at the Start Date), subject to fair wear and tear.
- (b) If you fail to remove the Co-located Equipment within the time specified in clause 3.10(a), we may do any one or more of the following, at your cost and without notice:
 - (i) dismantle and remove the Co-located Equipment from the Building;
 - (ii) repair any damage to the Building resulting from PowerTel's dismantling and removal of the Co-located Equipment;
 - (iii) store the Co-located Equipment;
 - (iv) deliver the Co-located Equipment to you;
 - (v) sell or otherwise dispose of the Co-located Equipment; and
 - (vi) take title to the Co-located Equipment.

3.11 Cross Connection

- (a) If you desire to connect the Co-located Equipment to equipment of any Carrier other than us, or to gain access to such Carrier's services at the Facility or to provide access to our services to such Carrier at the Facility ("**services**"), you must:
 - (i) provide 60 days prior written notice in writing to us giving full details of the services including but not limited to:
 - (A) name and details of the other Carrier;
 - (B) specific technical details of the proposed service;
 - (C) details of the proposed installation;
 - (D) your requirements and those of the other Carrier including space and equipment;
 - (E) technical drawings where applicable;
 - (F) any other details requested by us;
 - (ii) obtain our prior written approval;
 - (iii) ensure that all proposed services meet the technical specifications and other requirements required by us;
 - (iv) be responsible for the co-ordination of the installation and delivery, and meet our requirements for the same;
 - (v) be responsible for negotiating, setting and monitoring the terms and conditions, warranties and agreements with each Carrier;
 - (vi) meet all costs associated with the services, including our costs of assessing the application; and
 - (vii) pay to us the relevant cross connection Charge. The cross connection charge means an additional charge quoted upon application pursuant to this clause 3.11 and determined

by PowerTel (at its sole discretion) from time to time, applicable to use of the Site beyond the Permitted Use.

- (b) We will have no liability whatsoever in respect of the services.
- (c) For the avoidance of doubt, PowerTel does not represent or warrant that it is able to provide co-location or cross connection to equipment of another Carrier in any Facility.

3.12 Remote Hands

- (a) You may request that PowerTel provide you with the following Remote Hands tasks at the Facility:
 - (i) Rebooting your servers or resetting equipment;
 - (ii) Basic observation and reporting;
 - (iii) Remotely supervised preventative maintenance routines and tests; and
 - (iv) Changing your backup tapes.
- (b) The following are examples of tasks not covered by the Remote Hands service:
 - (i) Cabling within and between your racks;
 - (ii) Equipment installation; and
 - (iii) Purchase of equipment on your behalf.
- (c) As at the date of this Service Schedule, Remote hands services are only available at Facilities located in Sydney, Melbourne and Brisbane.
- (d) Remote hands services are offered on a time based charge at PowerTel's then current rates. PowerTel does not warrant that it will have sufficient resources to perform the Remote Hands services and will undertake such services on a reasonable efforts basis.
- (e) In the event that PowerTel undertakes Remote Hands services it excludes all liability to you in relation to such services the extent permitted by law.

3.13 Resupply of PowerTel Co-location Services

- (a) It is a condition of PowerTel supplying You with the PowerTel Co-location Services that you comply with clauses 3.13 (b) and 3.13(c);
- (b) You must not resupply the Co-location Services:
 - (i) to a person who engages in the supply of co-location services to other persons; or
 - (ii) to a person who uses the Co-location Services other than as an End User.
- (c) Without limiting clauses 3.13 (a) and 3.13 (b), if you provide the Co-location Services to an End User, the relevant terms and conditions ("End User Terms and Conditions") of supply of the Co-location Services between the you and your End User must contain a provision providing the you with a right to terminate the End User Terms and Conditions in the event that the End User either engages in re-supply of the Co-location Services or otherwise uses the Co-location Services other than as an End User.
- (d) The parties acknowledge and agree that if you or your End Users breach the conditions contained in this clause 3.13 (as applicable) then PowerTel may in its sole discretion:
 - (i) immediately, and without any liability, terminate any contract in breach of this condition for the provision to you of Co-location Services entered into under this Schedule; and/or

- (ii) increase the charges for all or any Co-location Services ordered by you from the date of such breach by an amount not greater than 20% of the charges current as at the date of breach.

PART D (v): POWERTEL ACCESSADVANTAGE SERVICE SCHEDULE

Unless expressly stated otherwise, a reference to a clause number shall be a reference to a clause contained in this Service Schedule.

1. GENERAL TERMS AND CONDITIONS

1.1 This Service Schedule incorporates the General Terms and Conditions and forms part of the Agreement.

2. POWERTEL ACCESSADVANTAGE SERVICES

2.1 The following Service descriptions is provided for PowerTel AccessAdvantage.

PowerTel AccessAdvantage is a bundled package combining the

- PowerTel Business Line Service; and the
- PowerTel Broadband Internet Service.
- Although these products can be purchased independently, the bundled package is described as PowerTel AccessAdvantage and has certain unique package advantages. The individual service specific terms and conditions relating to PowerTel Business Line Service and the PowerTel Broadband Internet Service still apply and are set out in:
 - PART B (ii) – POWERTEL VOICE SERVICE DESCRIPTION
 - PART B (iii) – POWERTEL INTERNET SERVICE DESCRIPTION

3. POWERTEL ACCESSADVANTAGE PACKAGES

PowerTel AccessAdvantage offers the following packages:

Package	Broadband Internet Speed	Broadband Internet Included Usage
4 Business Lines + Broadband Internet	1Mbps/1Mbps	500MB
4 Business Lines + Broadband Internet	1Mbps/1Mbps	3.0GB
4 Business Lines + Broadband Internet	1.5Mbps/1.5Mbps	5.0GB
4 Business Lines + Broadband Internet	1.5Mbps/1.5Mbps	10.0GB

3.1 Downgrades

If you select one of the above PowerTel Access Advantage packages, you cannot change to another package with a lower Recurring Charge during the Minimum Term. You may Downgrade your service in accordance with the terms set out in clause 12.7 of Part C - General Terms and Conditions.

3.2 Upgrades

PowerTel AccessAdvantage upgrades are permitted. Variation fees will apply. Upgrades relating to PowerTel Broadband Internet (within an PowerTel AccessAdvantage Plan) must be to that of a higher value based on Recurring Charges. PowerTel Business Line upgrades within a PowerTel AccessAdvantage plan are considered to be upgrades if Recurring Charges increase.

4. SERVICE SPECIFIC TERMS & CONDITIONS

4.1 Access Advantage Business Lines: Subject to retaining a minimum of 4 Business Lines and payment of the relevant variation fee, you are entitled to reduce or increase the number of Business Lines during the Minimum Term.

5. COMMON AND SERVICE SPECIFIC TERMS AND CONDITIONS

5.1 The following common and service specific terms and conditions apply to the Access Advantage Service:

- (a) Clauses 4.1, 4.2, 4.3, 4.4, 4.5, and 5 of Part D (ii) – PowerTel Voice Services Schedule; and
- (b) Clauses 4.2, 5.1, 5.2 and 5.3 of Part D (iii) – PowerTel Internet Services Schedule.

5.2 In relation to the access speeds outlined above, you acknowledge and agree that while the speeds quoted above are Our best estimate, some variation may be experienced by you from time to time due to technical features of the specific service which may include without limitation packet loss.

PART E (i): POWERTEL DATA SERVICE LEVEL AGREEMENT

These Service Levels cover the following data service categories:

- PowerTel Leased Line Services
- PowerTel Frame Relay Services
- PowerTel Asynchronous Transfer Mode (“ATM”) Services
- PowerTel Internet Protocol Virtual Private Network (“IP VPN”) Services (including access services with an Integral Router)
- PowerTel Managed Router Services (“MRS”)
- PowerTel Ethernet Services (“Ethernet”)

For the avoidance of doubt, these Service Levels do not apply to any other Service, unless expressly provided otherwise. These Service Levels do not apply to the ISDN or PSTN services (not supplied by PowerTel) used for Transit-1 or Transit-3 Dial access, but do apply to the PowerTel supplied router and dial port.

A reference to a clause number shall be a reference to a clause contained in these Service Levels, unless expressly stated otherwise.

1. PERFORMANCE TARGETS

The table below describes the performance targets for PowerTel’s data Circuits. Our failure to achieve these performance targets does not per se entitle you to claim a rebate. Your entitlement to rebates in the event of a Circuit Outage is set out in clause 2.

Transit-1 and Transit-3 IP VPN Access Services

Parameter	Target
Mean Time To Repair (MTTR)	
- Capital City area:	4 hours
- Regional area:	4 hours excluding on-site visit 24 hours including on-site visit
Mean is taken over a calendar month	
Availability	99.9%

All Other Data Services

Parameter	Target
Mean Time To Repair (MTTR)	4 Hours
The mean is taken over a calendar month	
Availability	99.95%

These targets are effective during Service Coverage Hours only.

Transit-1 and Transit-3 Service Coverage Hours are Monday to Friday 7:00AM to 9:00PM and Saturday 9:00AM to 5:00PM excluding gazetted Australia-wide public holidays. For Transit-1 and Transit-3 ISDN Dial services, the ISDN service component is excluded, as PowerTel does not provide this component of the service.

Service Coverage Hours for other Data services are 24 hours per day, 7 days per week. Fault reporting will be accepted by Us 24 hours per day, 7 days per week on all services.

2. OUTAGE REBATES

Subject to the rebate exemptions listed in clause 2.5 of the General Terms and Conditions, in the event of a Circuit Outage in any calendar month, you will be entitled to claim a rebate in accordance with the following rates which are based on the duration of the Outage:

Transit-1 and Transit-3 IP VPN Access Services

Accumulated Outage on a Circuit (in a calendar month)	Rebate
> 4 hours ≤ 6 hours Capital City; Regional where a site visit is not required, or > 24 ≤ 26 hours Regional where a site visit is required	15%
> 6 hours Capital City; Regional where a site visit is not required, or >26 hours Regional where a site visit is required	30%

All Other Data Services

Accumulated Outage on a Circuit (in a calendar month)	Rebate
> 2 ≤ 4 hours	5%
> 4 ≤ 6 hours	10%
> 6 ≤ 12 hours	15%
> 12 hours	20%

The rebates are calculated based on the percentage of the preceding month's Recurring Charge relating to the affected Circuit only.

A Circuit Outage is calculated for the Service Coverage Hours from the time that a fault or trouble call is received by PowerTel to the time when that Circuit ceases to be Unavailable except any downtime incurred as a result of or in connection with Your Equipment, or your act or omission, or an act or omission of your employees, agents, contractors or invitees.

Without limiting the above, the actual end-to-end Availability and performance of the Service may be affected by Your Equipment, including, without limitation, by the type and quality of Your Equipment used. All Your Equipment connected to Our network must be approved by the Australian Communications Authority prior to connection to Our network.

3. INSTALLATION TARGETS

The details below are the Service installation lead times calculated from the date of written notification by PowerTel of an Unconditional Ready for Service Date. Your entitlement to rebates in the event of an Installation Delay is set out in clause 4.

Access	Time
Installation of New Services	
For < 2Mbps Services: Fibre in building with electronics	10 Business Days
Ethernet (10BaseT) and Fast Ethernet (100BaseTX) Intra-city services via PowerTel's fibre network	15 Business Days
All PowerTel Data Services delivered over DSL – Leased Lines, Ethernet, ATM, Frame Relay and IP VPN.	20 Business Days
IP VPN Transit-1 or Transit-3 Access Services – Dial Port only	10 Business Days
IP VPN access with an Integral Router	25 Business Days
Services other than those specified in this table	To be advised
Modification of an Existing Service	
PowerTel fibre network access bandwidth where capacity/cabling is available at the Customer premises and no new equipment is required	5 Business Days
National IP VPN Port bandwidth	2 Business Days
Services other than those specified in this table	To be advised

4. INSTALLATION REBATES

Subject to the exemptions listed in clause 2.5 of the General Terms and Conditions, in the event of an Installation Delay, you will be entitled to claim a credit in accordance with the rates set out below.

Installation Time Frames	Installation Delay	Recurring Charge Rebate
Installation Targets as defined in clause 3 or as otherwise agreed in writing by the parties.	Up to 5 Business Days delay	1 month's free Recurring Charge
	6 to 10 Business Days delay	2 month's free Recurring Charge
	11 to 20 Business Days delay	3 month's free Recurring Charge
	Greater than 20 Business Days delay	4 month's free Recurring Charge

An Installation Delay is measured from the Unconditional Ready For Service Date notified to you by us. The rebates are calculated on the Recurring Charge payable in respect of the affected Circuit only. If we agree to waive the applicable Recurring Charge, then the rebate will be calculated based on an amount equal to our current published Recurring Charge applicable as at the Service Start Date.

PART E (ii): POWERTEL VOICE SERVICE LEVEL AGREEMENT

These Service Levels cover the following voice service categories:

- PowerTel ISDN Service (“**ISDN**”)
- PowerTel 13/1300/1800 Reach Service (“**Reach**”)
- PowerTel Long Distance Service (“**Long Distance**”)
- PowerTel Teleconferencing Services (“**Teleconferencing**”)
- PowerTel Business Line Services (“**Business Line**”)

For the avoidance of doubt, these Service Levels do not apply to any other Service, unless expressly provided otherwise.

Unless expressly stated otherwise, a reference to a clause number shall be a reference to a clause contained in these Service Levels.

The following Service Levels relate to performance of the Circuit or Service and not to the quality of the voice calls as there are factors which may affect voice quality which are beyond our control.

1. ISDN SERVICE LEVELS**1.1 Performance Targets**

The table below describes the performance targets for PowerTel ISDN Circuits. Failure to achieve these targets does not per se entitle you to claim a rebate. Your entitlement to rebates in the event of a Circuit Outage is set out in clause 1.2.

Parameter	Target
Mean Time To Repair (MTTR)	4 Hours
Availability	99.95%

1.2 Outage Rebates

Subject to clause 2.5 of the General Terms and Conditions, in the event of a Circuit Outage in any calendar month, you will be entitled to claim a rebate in accordance with the rates set out below based on the duration of the Outage.

Accumulated Outage on a Circuit (in a calendar month)	Rebate
> 2 ≤ 4 hours	5%
> 4 ≤ 6 hours	10%
> 6 ≤ 12 hours	15%
> 12 hours	20%

The rebates are calculated based on the percentage of the preceding month’s Usage Based Charge relating to the affected Circuit only. If there is more than one ISDN Circuit at an Access Site, Usage Based Charges will be calculated based on the total ISDN Usage Based Charges payable in respect of that Access Site divided by the number of ISDN Circuits at that Access Site.

A Circuit Outage is calculated from the time that a fault or trouble call is received by us to the time when that Circuit ceases to be Unavailable except any downtime incurred as a result of or in connection with Your Equipment or your act or omission or an act or omission of your agents, employees, invitees or contractors.

1.3 Installation Targets

The installation targets are set out below and are calculated from the date of written acceptance by us of your Application For Service. Your entitlement to claim rebates in the event of an Installation Delay is set out in clause 1.4.

Access	Time
Fibre in building hub no electronics (no building access)	To be negotiated
Fibre in building hub no electronics (building access granted) Extended Access tails PowerTel DSL	25 Business Days
Fibre in building hub with electronics (1st service to Customer floor)	10 Business Days

Access	Time
Add/Change service (where existing cabling/capacity available at Customer premises)	10 Business Days

1.4 Installation Rebates

Subject to the rebate exemptions listed in clause 2.5 of the General Terms and Conditions, in the event of an Installation Delay you will be entitled to claim a rebate in accordance with the rates set out below. An Installation Delay is measured from the Unconditional Ready for Service Date.

Installation Time Frames	Installation Delay	Recurring Charge Rebate
Installation Targets as defined in clause 1.3 or as otherwise agreed in writing with you.	Up to 5 Business Days delay	1 month's Recurring Charge
	6 to 10 Business Days delay	2 month's Recurring Charge
	11 to 20 Business Days delay	3 month's Recurring Charge
	Greater than 20 Business Days delay	4 month's Recurring Charge

The rebates are calculated based on the Recurring Charge payable in respect of the affected Circuit only. If PowerTel in its sole discretion agrees to waive the applicable Recurring Charge, then the rebate will be calculated based on an amount equivalent to PowerTel's current published Recurring Charge applicable as at the Service Start Date.

2. REACH SERVICE LEVELS

2.1 Performance Targets

The table below describes the performance targets for the PowerTel Reach Service. Failure to achieve these targets does not automatically entitle you to claim a rebate. Your entitlement to rebates in the event of a Service Outage is set out in clause 2.2.

Parameter	Target
Mean Time To Repair (MTTR) (PowerTel Infrastructure)	2 Hours
Availability	99.95%

2.2 Outage Rebates

Subject to the rebate exemptions listed in clause 2.5 of the General Terms and Conditions, in the event of a Service Outage in any calendar month you will be entitled to claim a rebate in accordance with the rates set out below based on the duration of the Outage.

Accumulated Outage on a Service (in a calendar month)	Rebate
> 2 ≤ 4 hours	5%
> 4 ≤ 6 hours	10%
> 6 ≤ 12 hours	15%
> 12 hours	20%

A Service Outage is calculated from the time that a fault or trouble call is received by us to the time when that Service ceases to be Unavailable except any downtime incurred as a result of or in connection with your act or omission, or an act or omission of your agents, employees, invitees or contractors.

The rebates are calculated based on the percentage of the preceding month's Usage Based Charge relating to the affected Service only.

Without limiting the above, the actual end-to-end Availability and performance of the Service may be affected by Your Equipment, including, without limitation, by the type and quality of Your Equipment used. All Your Equipment connected to Our network must be approved by the Australian Communications Authority approved prior to connection to Our network.

2.3 Installation Targets

The installation targets are set out below and are calculated from the date of written acceptance by us of your Application For Service. Your entitlement to claim rebates in the event of an Installation Delay is set out in clause 2.4.

Access	Time
Provision of new Service (with not more than 50 answer points per Service)	10 Business Days
Provision of new Service (with in excess of 50 answer points per Service)	To be negotiated

2.4 Installation Rebates

Subject to the rebate exemptions listed in clause 2.5 of the General Terms and Conditions, in the event of an Installation Delay you will be entitled to claim a rebate in accordance with the rates set out below. An Installation Delay is measured from the Unconditional Ready for Service Date.

Installation Time Frames	Installation Delay	Recurring Charge Rebate
Installation Targets as defined in clause 2.3 or as otherwise agreed in writing with you.	Up to 5 Business Days delay	1 month's Recurring Charge
	6 to 10 Business Days delay	2 month's Recurring Charge
	11 to 20 Business Days delay	3 month's Recurring Charge
	Greater than 20 Business Days delay	4 month's Recurring Charge

The rebates are calculated based on the Recurring Charge payable in respect of the affected Service only. If we agree in our sole discretion to waive the applicable Recurring Charge, then the rebate will be calculated based on an amount equivalent to PowerTel's current published Recurring Charge applicable as at the Service Start Date.

3. **LONG DISTANCE SERVICE LEVELS**

3.1 Preselection

The installation target for Preselection is 15 Business Days calculated from the date of written acceptance by us of the Application For Service.

No outage or installation rebates apply to the Preselection service.

3.2 Carrier Override Code

The installation target for Carrier Override Code is 5 Business Days calculated from the date of written acceptance by us of the Application For Service.

No outage or installation rebates apply to the Carrier Override Code service.

4. **TELECONFERENCING SERVICE LEVELS**

The registration target for PowerTel Teleconferencing is:

- (a) in respect of applications with not more than 50 Services, 1 Business Day calculated from the date of written acceptance by us of the Application For Service; and
- (b) in respect of applications with more than 50 Services, we will advise you of the registration target.

No outage or registration rebates apply to the PowerTel Teleconferencing Service.

5. **BUSINESS LINE SERVICE LEVELS**

5.1 Performance Targets

The table below describes the performance targets for PowerTel Business Line Circuits. Failure to achieve these targets does not per se entitle you to claim a rebate. Your entitlement to rebates in the event of a Circuit Outage is set out in clause 5.2.

Parameter	Target
Mean Time To Repair (MTTR)	24 Hours
Availability	99.95%

5.2 Outage Rebates

Subject to the rebate exemptions listed in clause 2.5 of the General Terms and Conditions, in the event of a Circuit Outage in any calendar month you will be entitled to claim a rebate in accordance with the rates set out below based on the duration of the Outage.

Accumulated Outage on a Circuit (in a calendar month)	Rebate
> 6 ≤ 15 hours	10%
> 15 ≤ 20 hours	15%
> 20 ≤ 25 hours	20%
> 25 ≤ 30 hours	30%
> 30 hours	40%

The rebates are calculated based on the percentage of the preceding month's Recurring Charge (pro-rata) relating to the affected Circuit only.

A Circuit Outage is calculated from the time that a fault or trouble call is received by us to the time when that Circuit ceases to be Unavailable except any downtime incurred as a result of or in connection with Your Equipment or your act or omission or an act or omission of your agents, employees, invitees or contractors.

5.3 Installation Targets

The installation targets are set out below and are calculated from the date of written acceptance by us of your Application For Service. Your entitlement to claim rebates, if any, in the event of an Installation Delay is set out in clause 5.4.

Access	Time
4 analogue voice exchange lines (where you have received an unconditional order acceptance).	20 Business Days

5.4 Installation Rebates

Installation Rebates do not apply.

PART E (iii): POWERTEL INTERNET SERVICE LEVEL AGREEMENT

These Service Levels cover the following internet service categories:

- PowerTel IP Network
- PowerTel Dedicated Internet Access (“DIA”) Service;
- PowerTel Business DSL (Internet) Service;
- PowerTel Broadband Internet (“Broadband”) Service (also sold as PowerTel Enterprise SHDSL);
- PowerTel Internet Access DSL (previously known as PowerTel Dedicated xDSL); and
- PowerTel Internet Access DSL Home Office

For the avoidance of doubt, these Service Levels do not apply to any other Service, unless expressly provided otherwise.

1. POWERTEL IP NETWORK**1.1 Performance Targets**

The PowerTel IP network comprises all the PowerTel IP routing equipment physically located in various network points-of-presence (excluding PowerTel Firewall Services) as well as the transport mechanisms that link them together. Performance targets for the PowerTel IP Network are applicable regardless of the access service (such as DIA, Business DSL, and Broadband).

The table below describes the performance objectives for PowerTel’s IP network. These objectives are broken down into Round Trip Times and Packet Loss.

Round Trip Times are measured by sending an Internet Control Message Protocol packet (a “ping”) between any of the PowerTel core routers, taking the total average round trip times over a one calendar month period and comparing it to the target figure in the table below.

Packet Loss is measured by taking the total average packet loss over a one calendar month period and comparing it to the target figure in the table below.

Parameter	Target
National Network Average Round Trip Time	80 milliseconds
International Network Average Round Trip Time	260 milliseconds
National Network Average Packet Loss	< 1%
International Network Average Packet Loss	< 2 %

We will use our reasonable endeavours to meet these performance targets but do not provide rebates if we are unable to meet them for whatever reason.

2. POWERTEL DEDICATED INTERNET ACCESS SERVICE LEVELS**2.1 Performance Targets****2.1.1 Physical Connectivity**

The Physical Connectivity can be achieved utilising several different transport methods including ATM, Frame Relay, Ethernet and IP VPN Access service.

The service levels (installation, availability and rebates) for the Physical Connectivity are that of the data access service used. We provide these below:

- PowerTel Leased Line Services
- PowerTel Frame Relay Services
- PowerTel Asynchronous Transfer Mode (“ATM”) Services
- PowerTel Internet Protocol Virtual Private Network (“IP VPN”) Services
- PowerTel Managed Router Services (“MRS”)
- PowerTel Ethernet Services (“Ethernet”)

For the avoidance of doubt, these Service Levels do not apply to any other Service, unless expressly provided otherwise. These Service Levels do not apply to the ISDN or PSTN services (not supplied by PowerTel) used for Transit-1 or Transit-3 Dial access, but do apply to the PowerTel supplied router and dial port.

The table below describes the performance targets for PowerTel's data Circuits. Our failure to achieve these performance targets does not per se entitle you to claim a rebate. Your entitlement to rebates in the event of a Circuit Outage is set out in clause 2.2.

Transit-1 and Transit-3 IP VPN Access Services

Parameter	Target
Mean Time To Repair (MTTR) - Capital City area: - Regional area: Mean is taken over a calendar month	4 hours 4 hours excluding on-site visit 24 hours including on-site visit
Availability	99.9%

All Other Data Services

Parameter	Target
Mean Time To Repair (MTTR) The mean is taken over a calendar month	4 Hours
Availability	99.95%

These targets are effective during Service Coverage Hours only.

Transit-1 and Transit-3 Service Coverage Hours are Monday to Friday 7:00AM to 9:00PM and Saturday 9:00AM to 5:00PM excluding gazetted Australia-wide public holidays. For Transit-1 and Transit-3 ISDN Dial services, the ISDN service component is excluded, as PowerTel does not provide this component of the service.

Service Coverage Hours for other Data services are 24 hours per day, 7 days per week. Fault reporting will be accepted by Us 24 hours per day, 7 days per week on all services.

2.2 Outage Rebates

Subject to the rebate exemptions listed in clause 2.5 of the General Terms and Conditions, in the event of a Circuit Outage in any calendar month, you will be entitled to claim a rebate in accordance with the following rates which are based on the duration of the Outage:

Transit-1 and Transit-3 IP VPN Access Services

Accumulated Outage on a Circuit (in a calendar month)	Rebate
> 4 hours ≤ 6 hours Capital City; Regional where a site visit is not required, or > 24 ≤ 26 hours Regional where a site visit is required	15%
> 6 hours Capital City; Regional where a site visit is not required, or >26 hours Regional where a site visit is required	30%

All Other Data Services

Accumulated Outage on a Circuit (in a calendar month)	Rebate
> 2 ≤ 4 hours	5%
> 4 ≤ 6 hours	10%
> 6 ≤ 12 hours	15%
> 12 hours	20%

The rebates are calculated based on the percentage of the preceding month's Recurring Charge relating to the affected Circuit only.

A Circuit Outage is calculated for the Service Coverage Hours from the time that a fault or trouble call is received by PowerTel to the time when that Circuit ceases to be Unavailable except any downtime incurred as a result of or in connection with Your Equipment, or your act or omission, or an act or omission of your employees, agents, contractors or invitees.

Without limiting the above, the actual end-to-end Availability and performance of the Service may be affected by Your Equipment, including, without limitation, by the type and quality of Your Equipment used. All Your Equipment connected to Our network must be approved by the Australian Communications Authority prior to connection to Our network.

2.3 Installation Targets

The details below are the Service installation lead times calculated from the date of written notification by PowerTel of an unconditional installation date. Your entitlement to rebates in the event of an Installation Delay is set out in clause 2.4.

Access	Time
Installation of New Services	
For < 2Mbps Services: Fibre in building with electronics	10 Business Days
Ethernet (10BaseT) and Fast Ethernet (100BaseTX) Intra-city services via PowerTel's fibre network	15 Business Days
All PowerTel Data Services delivered over DSL – Leased Lines, Ethernet, ATM, Frame Relay and IP VPN.	20 Business Days
IP VPN Transit-1 or Transit-3 Access Services – Dial Port only	10 Business Days
IP VPN access with an Integral Router	25 Business Days
Services other than those specified in this table	To be advised
Modification of an Existing Service	
PowerTel fibre network access bandwidth where capacity/cabling is available at the Customer premises and no new equipment is required	5 Business Days
National IP VPN Port bandwidth	2 Business Days
Services other than those specified in this table	To be advised

Notwithstanding any of the time frames listed above, if you require Internet Bandwidth from us of a capacity equal to or greater than 10 Mbps, we will use all reasonable endeavours to advise you of a Conditional Ready for Service Date for such Services which may or may not equal the timeframes (if any) listed above

2.4 Installation Rebates

Subject to the exemptions listed in clause 2.5 of the General Terms and Conditions, in the event of an Installation Delay, you will be entitled to claim a credit in accordance with the rates set out below.

Installation Time Frames	Installation Delay	Recurring Charge Rebate
Installation Targets as defined in clause 2.3 or as otherwise agreed in writing by the parties.	Up to 5 Business Days delay	1 month's free Recurring Charge
	6 to 10 Business Days delay	2 month's free Recurring Charge
	11 to 20 Business Days delay	3 month's free Recurring Charge
	Greater than 20 Business Days delay	4 month's free Recurring Charge

An Installation Delay is measured from the Unconditional Ready For Service Date notified to you by us. The rebates are calculated on the Recurring Charge payable in respect of the affected Circuit only. If we agree to waive the applicable Recurring Charge, then the rebate will be calculated based on an amount equal to our current published Recurring Charge applicable as at the Service Start Date.

3. **POWERTEL BUSINESS DSL (INTERNET) SERVICE**

PowerTel Business DSL Service Levels cover the following Services :

- PowerTel Business SHDSL
- PowerTel Business ADSL

3.1 Performance Targets

The Physical Connectivity for the DSL (Internet) Service is the Layer 1 and Layer 2 connection between a Customer and the PowerTel IP backbone.

The table below describes the performance objectives for PowerTel's Business SHDSL and Business ADSL services. Failure to achieve these targets does not automatically entitle the Customer to a rebate.

Parameter	Target
Mean Time To Repair (MTTR) (The mean is taken over a calendar month)	24 Hours
Availability target	99.9%

Your entitlement to a rebate in the event of an Outage is set out in clause 3.2.

3.2 Outage Rebates

Subject to the rebate exemptions listed in clause 2.5 of the General Terms and Conditions, in the event of a Circuit Outage within any calendar month, the customer will be entitled to claim a rebate in accordance with the rates set out below based on the duration of the Outage.

Accumulated Outage on a Circuit (in a calendar month)	Rebate
> 4 hours ≤ 6 hours	15%
> 6 hours	30%

The rebates are calculated based on the percentage of the preceding calendar month's Recurring Charge relating to the affected Circuit only.

A Circuit Outage is calculated from the time that we receive a fault or trouble call from you to the time when that Circuit ceases to be Unavailable except any downtime incurred as a result of or in connection with your equipment, or your act or omission, or an act or omission of your employees, agents, contractors or invitees.

Without limiting the above, the actual end-to-end Availability and performance of the Service may be affected by equipment you have provided, including, without limitation, by the type and quality of the equipment you use. All equipment you connect to our network must be approved by the Australian Communications Authority prior to connection to our network.

3.3 Installation Targets

The details below are the Service installation lead times calculated from the date of written notification by us to you of an Unconditional Ready for Service Date.

Access	Time
Business SHDSL	25 Business Days
Business ADSL	25 Business Days

Your entitlement to claim rebates in the event of an Installation Delay is set out in clause 3.4.

3.4 Installation Rebates

Subject to the rebate exemptions listed in clause 2.5 of the General Terms and Conditions, in the event of an Installation Delay you will be entitled to claim a rebate in accordance with the rates set out below.

Installation Time Frames	Installation Delay	Recurring Charge Rebate
Installation Targets as defined in clause 3.3 or as otherwise agreed in writing with you.	Up to 5 Business Days delay	1 month Recurring Charge
	6 to 10 Business Days delay	2 months Recurring Charge
	11 to 20 Business Days delay	3 months Recurring Charge
	Greater than 20 Business Days delay	4 months Recurring Charge

An Installation Delay will be measured from the Unconditional Ready for Service Date. The rebates are calculated on the basis of the Recurring Charge payable in respect of the affected Circuit only. If we in our sole discretion agree to waive the applicable Recurring Charge, then the rebate will be calculated on the basis of an amount equal to our current published Recurring Charge applicable as at the Start Date of the Service.

4. **POWERTEL BROADBAND INTERNET SERVICE LEVELS (ALSO SOLD AS ENTERPRISE SHDSL)**

4.1 Performance Targets

The Physical Connectivity can be achieved with the SHDSL service.

The table below describes the performance objectives for PowerTel's SHDSL circuits provisioned for a PowerTel Broadband Internet Service. Failure to achieve these targets does not per se entitle you to claim a rebate.

Parameter	Target
Mean Time To Repair (MTTR) (The mean is taken over a calendar month)	24 Hours
Availability target	99.9%

Your entitlement to claim a rebate is set out in clause 4.3 below.

4.2 Installation Targets

The details below are the Service installation lead times calculated from the date of written notification by us to you of an Unconditional Ready for Service Date.

Access	Time
SHDSL (where you have received an unconditional order acceptance).	20 Business Days

No Installation rebates apply.

4.3 Outage Rebates

Subject to the rebate exemptions listed in clause 2.5 of the General Terms and Conditions, in the event of a Circuit Outage within any calendar month, the customer will be entitled to claim a rebate in accordance with the rates set out below based on the duration of the Outage.

Accumulated Outage on a Circuit (in a calendar month)	Rebate
> 6 ≤15 hours	10%
> 15 ≤20 hours	15%
> 20 ≤25 hours	20%
> 25 ≤30 hours	30%
> 30 hours	40%

The rebates are calculated based on the percentage of the preceding month's Recurring Charge relating to the affected Circuit only. In the event that the Broadband Internet Service is part of an AccessAdvantage bundle, you will be entitled to a rebate based on the AccessAdvantage Recurring Charge.

A Circuit Outage is calculated from the time that we receive a fault or trouble call from you to the time when that Circuit ceases to be Unavailable except any downtime incurred as a result of or in connection with your equipment, or act or omission, or an act or omission of your employees, agents, contractors or invitees.

Without limiting the above, the actual end-to-end Availability and performance of the Service may be affected by equipment you have provided, including, without limitation, by the type and quality of your equipment used. All your equipment connected to our network must be approved by the Australian Communications Authority prior to connection to our network.

5. **POWERTEL INTERNET ACCESS DSL (PREVIOUSLY KNOWN AS DEDICATED XDSL)**

5.1 Performance Targets

The table below describes the performance targets for PowerTel's Internet Access DSL services. Failure to achieve these performance targets does not per se entitle you to claim a rebate.

Parameter	Target
Mean Time To Repair (MTTR)	
- Capital City area:	4 hours
- Regional area:	4 hours excluding on-site visit
Mean is taken over a calendar month	24 hours including on-site visit
Availability	99.9%

Your entitlement to rebates in the event of a Circuit Outage is set out in clause 5.2.

These targets are effective during Internet Access DSL Service Coverage Hours only. Internet Access DSL Service Coverage Hours are 24 hours per day, 7 days per week.. Fault reporting will be accepted by Us 24 hours per day, 7 days per week on all services.

5.2 Outage Rebates

Subject to the rebate exemptions listed in clause 2.5 of the General Terms and Conditions, in the event of a Circuit Outage within any calendar month, the customer will be entitled to claim a rebate in accordance with the rates set out below based on the duration of the Outage:

Accumulated Outage on a Circuit (in a calendar month)	Rebate
> 4 hours ≤ 6 hours Capital City; Regional where a site visit is not required, or > 24 ≤ 26 hours Regional where a site visit is required	15%
> 6 hours Capital City; Regional where a site visit is not required, or >26 hours Regional where a site visit is required	30%

The rebates are calculated based on the percentage of the preceding month's Recurring Charge relating to the affected Circuit only.

A Circuit Outage is calculated for the Service Coverage Hours from the time that we receive a fault or trouble call from you to the time when that Circuit ceases to be Unavailable except any downtime incurred as a result of or in connection with your equipment, or act or omission, or an act or omission of your employees, agents, contractors or invitees.

Without limiting the above, the actual end-to-end Availability and performance of the Service may be affected by equipment you have provided, including, without limitation, by the type and quality of your equipment used. All your equipment connected to our network must be approved by the Australian Communications Authority prior to connection to our network.

5.3 Installation Targets

The details below are the Service installation lead times calculated from the date of written notification by us to you of an Unconditional Ready for Service Date. Your entitlement to rebates in the event of an Installation Delay is set out in clause 5.4.

Access	Time
Installation of New Services	
Delivered via PowerTel network	20 Business Days
Delivered via extended network access	To be advised
Modification of an Existing Service	
PowerTel network access bandwidth where capacity/cabling is available at the Customer premises and no new equipment is required	5 Business Days
Services other than those specified in this table	To be advised

5.4 Installation Rebates

Subject to the exemptions listed in clause 2.5 of the General Terms and Conditions, in the event of an Installation Delay, you will be entitled to claim a credit in accordance with the rates set out below.

Installation Time Frames	Installation Delay	Recurring Charge Rebate
Installation Targets as defined in clause 5.3 or as otherwise agreed in writing by the parties.	Up to 5 Business Days delay	1 month's free Recurring Charge
	6 to 10 Business Days delay	2 month's free Recurring Charge
	11 to 20 Business Days delay	3 month's free Recurring Charge
	Greater than 20 Business Days delay	4 month's free Recurring Charge

An Installation Delay is measured from the Unconditional Ready For Service Date notified to you by us. The rebates are calculated on the Recurring Charge payable in respect of the affected Circuit only. If we agree to

waive the applicable Recurring Charge, then the rebate will be calculated based on an amount equal to our current published Recurring Charge applicable as at the Service Start Date.

6. POWERTEL INTERNET ACCESS DSL HOME OFFICE

6.1 Performance Targets

The table below describes the performance targets for PowerTel's Internet Access DSL Home Office services. Failure to achieve these performance targets does not per se entitle you to claim a rebate.

Parameter	Target
Mean Time To Repair (MTTR) The mean is taken over a calendar month	24 hours
Availability	99.9%

Your entitlement to rebates in the event of a Circuit Outage is set out in clause 6.2.

These targets are effective during Internet Access DSL Home Office Service Coverage Hours only. Internet Access DSL Home Office Service Coverage Hours are Monday to Friday 7:00AM to 9:00PM and Saturday 9:00AM to 5:00PM excluding gazetted Australia-wide public holidays. Fault reporting will be accepted by Us 24 hours per day, 7 days per week on all services.

6.2 Outage Rebates

Subject to the rebate exemptions listed in clause 2.5 of the General Terms and Conditions, in the event of a Circuit Outage within any calendar month, the customer will be entitled to claim a rebate in accordance with the rates set out below based on the duration of the Outage:

Accumulated Outage on a Circuit (in a calendar month)	Rebate
> 4 hours ≤ 6 hours Capital City; Regional where a site visit is not required, or > 24 ≤ 26 hours Regional where a site visit is required	15%
> 6 hours Capital City; Regional where a site visit is not required, or >26 hours Regional where a site visit is required	30%

The rebates are calculated based on the percentage of the preceding month's Recurring Charge relating to the affected Circuit only.

A Circuit Outage is calculated for the Internet Access DSL Home Office Service Coverage Hours from the time that we receive a fault or trouble call from you to the time when that Circuit ceases to be Unavailable except any downtime incurred as a result of or in connection with your equipment, or act or omission, or an act or omission of your employees, agents, contractors or invitees.

Without limiting the above, the actual end-to-end Availability and performance of the Service may be affected by equipment you have provided, including, without limitation, by the type and quality of your equipment used. All your equipment connected to our network must be approved by the Australian Communications Authority prior to connection to our network.

6.3 Installation Targets

The details below are the Service installation lead times calculated from the date of written notification by us to you of an Unconditional Ready for Service Date. Your entitlement to rebates in the event of an Installation Delay is set out in clause 6.4.

Access	Time
Installation of New Services	
Delivered via PowerTel network	20 Business Days
Delivered via extended network access	To be advised
Modification of an Existing Service	
PowerTel network access bandwidth where capacity/cabling is available at the Customer premises and no new equipment is required	5 Business Days
Services other than those specified in this table	To be advised

6.4 Installation Rebates

No rebates are offered in the event of an Installation Delay of a PowerTel Internet Access DSL Home Office service.

PART E (iv): POWERTEL CO-LOCATION SERVICE LEVEL AGREEMENT

The PowerTel Co-Locate Service Levels covers our provision of co-location services to you. For the avoidance of doubt, these Service Levels do not apply to any other Service, unless expressly provided otherwise.

1. INSTALLATION TARGETS

The details below are the service installation lead times and are calculated from the date of written acceptance by us of your Application For Service. Your entitlement to claim rebates in the event of an Installation Delay is set out in clause 2.

Access	Time
All Co-Locate Services	
Add new racks/cabinets and cabling for customer:	
Space/power not available in Co-Locate room	To be negotiated
Space/power available in Co-Locate room	10 Business Days
Incremental add/change to existing customer racks/cabinets	
Add cabling for increased capacity and/or power requirements	10 Business Days

2. INSTALLATION REBATES

Subject to the rebate exemptions listed in clause 2.5 of the General Terms and Conditions, in the event of an Installation Delay you will be entitled to claim a rebate in accordance with the rates set out below.

Installation Delay	Recurring Charge Rebate
Up to 5 Business Days delay	50% off 1 month's Recurring Charge
6 to 10 Business Days delay	50% off 2 month's Recurring Charge
11 to 20 Business Days delay	50% off 3 month's Recurring Charge
Greater than 20 Business Days delay	50% off 4 month's Recurring Charge

The above service levels only apply to Co-locate services that are on the PowerTel network only. An Installation Delay is measured from the Unconditional Ready For Service Date notified to you by us. The rebates are calculated on the Recurring Charge payable in respect of the affected Circuit only. If we agree to waive the applicable Recurring Charge, then the rebate will be calculated based on an amount equal to our current published Recurring Charge applicable as at the Service Start Date.

3. MAINTENANCE

Except in cases of emergency, PowerTel will use its best endeavours to provide the customer with reasonable notice of any planned maintenance requirements and to schedule such maintenance in consultation with the Customer.