

PARTIES

The parties to this agreement are:

- (a) the business named in the Schedule of Agreement Key Terms hereto, be it a sole trader or partnership trading under a business name or in their own names or a company, and if a company whether in its own right or a trustee of a trust (Customer); and
- (b) Applied Satellite Technology Australia Pty Ltd (ABN 33 065 247 412) of 92 Furniss Road, Landsdale, Western Australia 6065, Trading as AST Networks (ASTN), and the persons signing on behalf of the parties warrant that they have authority to sign on behalf of the respective parties.

1. AGREEMENT

- (a) This Schedule of Agreement Key Terms, any annexure hereto, any quotation and the Terms and Conditions shall form the Contract between ASTN and the Customer.
- (b) ASTN agrees to rent to the Customer and the Customer agrees to rent from ASTN the Goods for the Term of the Rent.
- (c) Upon expiration of the Term the Customer has the Option to make the Final Payment to ASTN at which time ASTN will transfer its title and possession of the Goods to the Customer.

2. RENT AND PAYMENT

- (a) The Customer will pay the Rent as per 'D' in the Schedule of Agreement Key Terms to ASTN or its agents as otherwise directed.
- (b) ASTN shall provide a valid tax invoice in respect of the Rent.
- (c) If payment is made by cheque/eft, the cheque/remittance shall be collateral only and shall not discharge the Customer's obligation to pay under this Agreement until the cheque/eft payment has been cleared by the drawer's bank. If the Customer's cheque/remittance is dishonoured or if money owing pursuant to this Agreement remains unpaid after the due date, ASTN may require the return of the Goods until payment in full is made.
- (d) If payment is made by credit card (visa/mastercard/amex) a 2% surcharge will be applied.
- (e) The Customer shall pay interest on the overdue amounts at the rate of 5% per month and an administrative fee of \$10.00 for each reminder letter sent by ASTN seeking payment of an overdue account.

3. RISK, FREIGHT & DELIVERY OF GOODS

- (a) On and from the commencement date and at the Customer's own expense (including installation costs), ASTN shall give and the Customer shall take possession of the Goods.
- (b) Risk in the Goods passes to the Customer when the Goods leave ASTN's premises or those of its supplier for delivery to the Customer. Ownership of the Goods does not pass to the Customer until Final Payment has been made to the Seller in accordance with option in clause 2(c) of the Terms.
- (c) The Customer acknowledges that ASTN has not given any warranty or representation as to the date of delivery of the Goods and agrees that its obligation to make the payments under this Agreement will not be affected by any delay in delivery howsoever caused.
- (d) ASTN will not be liable for any delay in obtaining, or (where delivery is to be made by a third party whether acting as agent of the Customer or of ASTN or otherwise) refusal of delivery or for any damage incurred by the Goods in the course of delivery.
- (e) Any freight consignments with a value greater than \$200.00 will be automatically insured by ASTN when shipped and ASTN is entitled to charge a further 0.05% of the invoice value of the Goods to cover insurance costs.

4. USE AND CONDITION OF GOODS

The Customer must only operate and maintain the Goods in accordance with recognised methods and standards for use of the Goods. The Customer shall comply in all respects with the instructions and recommendations of the manufacturer or other supplier relating to the Goods and to their use, including following any manual or guidelines provided by the manufacturer or ASTN.

5. MAINTENANCE & REPAIR

- (a) The Customer must at all times, and at its own expense, keep and maintain the Goods in proper working order and condition and in good and substantial repair.
- (b) The Customer must with reasonable promptness replace all Parts, but not without the prior written consent of ASTN, which are or become worn out, lost, stolen, compulsorily acquired, destroyed, seized, confiscated, damaged

beyond repair or permanently rendered unfit for use. All replacement Parts shall become the property of the ASTN.

- (c) The Customer is responsible to ASTN for any loss of or damage to the Goods (however occasioned) and the Customer must give reasonable notice to ASTN, in writing, of any such loss or damage to the Goods.
- (d) If the Customer fails to carry out the requirements under this clause, it will be lawful but not obligatory for ASTN to enter upon or into any location containing the Goods with workmen and others and all necessary materials for the purpose of carrying out those requirements and ensuring that the value of the Goods is not adversely affected.

6. SERVICING & INSPECTION

The Customer grants ASTN or its agent the right, upon ASTN giving the Customer reasonable notice, to inspect, service and maintain the Goods at the Customers expense, however, in the case of an emergency, in ASTN's reasonable opinion, no notice will be required to be given by ASTN to the Customer.

7. MANUFACTURER'S WARRANTY

ASTN reserves the right to request a copy of the warranty agreement and proof of purchase prior to undertaking repair or replacement. ASTN at its discretion will either replace or repair the faulty Goods. If the Goods are situated outside the Perth metropolitan area the Customer agrees to indemnify ASTN for all travel expenses incurred.

8. INSURANCE

- (a) The Customer must effect and maintain at all times during the Term and any extension of this Agreement or holding over under this Agreement, at its own expense, insurance of the Goods for their full insurable value against damage or destruction caused by accident, any insurable risk commonly insured against in regard to equipment of a similar nature to the Goods, and such other insurable risks as ASTN may reasonably stipulate.
- (b) The Customer represents and warrants that it will effect and maintain insurance from the date of signing this Agreement to the end of the Term.

9. EXCLUSION OF WARRANTIES, LIMITATION OF LIABILITY AND RELEASE

- (a) This Agreement embodies all the terms and conditions of the rental transaction between the parties and the Customer acknowledges and agrees that no condition, warranty or representation express or implied is or has been given by ASTN, its servants or agents as to the condition, quality, design or operation of the Goods or their suitability or fitness for their ordinary or any special use or purpose and except for such terms and conditions implied by law and which may not be excluded. Please note these terms relate to the equipment only and not part of the airtime services
- (b) ASTN warrants that it is not aware of any reason why the Goods are not suitable or fit for their identified use by the Customer.
- (c) To the full extent permitted by the laws of:
 - (i) the Commonwealth of Australia;
 - (ii) any state or territory of Australia having jurisdiction, as the case may be, any conditions or warranties imposed or implied by such laws in respect of either party, are excluded. Additionally each party agrees that the other party will not be liable for any special, indirect or consequential damages, loss of profit, goodwill, bargain, revenue or loss of anticipated saving or loss, or corruption of data arising under, pursuant to or as a result of a breach of the Terms by that other party or as a result of a breach of duty of care or negligence arising at law.
- (d) The Customer takes full responsibility for:
 - (i) determining that the Goods are suitable for the purposes for which the Goods are required; and
 - (ii) carefully examining the Goods for defects that a careful examination ought to reveal.
- (e) Where a condition or warranty is implied into the Agreement by the Competition and Consumer Act 2010 or any other law and cannot be excluded, but liability for breach of which can be limited, each party's liability is limited:
 - (i) in the case of goods to any one or more of the following at the option of that party the replacement of the goods or the supply of equivalent goods, the repair of goods, the payment of the cost of replacing the goods or of acquiring equivalent goods, the payment of the cost of having the goods repaired, or

- (ii) in the case of services to any one or more of the following at the option of that party the supplying of the services again, the payment of the cost of having the services supplied again, or
 - (iii) in either case, to any lesser liability permitted by the relevant law.
- (f) Subject to the law, ASTN shall not be liable for any special, indirect or consequential damages, loss of profit, goodwill, revenue or loss of anticipated saving or loss arising as a result of a breach of the terms and conditions of this Agreement by ASTN or as a result of a breach of duty of care or negligence arising at law.
 - (g) To the maximum extent permitted by law, ASTN's liability to the Customer under this Agreement is limited to the value of this Agreement.
 - (h) The Customer shall indemnify ASTN from and against all claims and demands, proceedings, judgments, damages, costs and losses of any nature whatsoever arising out of, or resulting from, or in connection with, ASTN's supply of the Goods, Parts and services under this Agreement.

10. DEFAULT

If the Customer:

- (a) defaults in punctual payment of any monies payable under this Agreement and such default continues for more than ten (10) business days after notice from ASTN requiring the Customer to remedy the same; or
- (b) to observe and perform the terms and conditions hereof; or
- (c) becomes bankrupt or insolvent, or enters into any Deed of arrangement or composition with its creditors or suffers execution to be issued against the Customer or being a company goes into liquidation voluntarily or compulsorily or there be an administrator or receiver and or manager appointed,

the Term shall, at the option of ASTN, terminate and all monies previously paid shall be forfeited to ASTN and it shall be lawful for ASTN to retake possession of the Goods and for that purpose to enter into or upon any premises where the same may be. Termination of the Term under this clause shall not affect the right of ASTN to recover from the Customer any moneys payable under this Agreement, or damages for breach of the Agreement.

11. EARLY TERMINATION

- (a) Unless the Customer is otherwise in default, the Customer may only terminate this Agreement early upon agreement of both parties in writing. Upon early termination of this Agreement ASTN will be entitled to retain all Rent and other moneys previously paid by the Customer to ASTN under this Agreement.
- (b) If in the event that early termination occurs as a result of default by the Customer, ASTN may recover from the Customer as liquidated and ascertained damages, but not as a penalty, the balance due with respect to the Goods less the net proceeds of any subsequent Agreement for the Goods during the remainder of the Term; and may recover from the Customer any and all additional damages and expenses sustained by ASTN by reason of such early termination or by reason of the breach of any covenant, representation or warranty contained or implied in this Agreement other than for due payment of the Rental Fee and if the payment of any amount included in a payment required to be made by the Customer to ASTN is held to be unenforceable the payment will be unenforceable only to the extent of such amount.
- (c) The Customer's obligation to make the balance of the payment will remain unaffected by such unenforceability.
- (d) Upon the early termination of this Agreement the Customer must immediately deliver the Goods, at the Customer's expense, appropriately protected and in the condition required by Clause 6, and return to such address as is notified by ASTN to the Customer from time to time.

12. ENFORCEMENT EXPENSES

- (a) The Customer shall reimburse ASTN for all reasonable fees and expenses incurred by ASTN in connection with the recovery of overdue accounts and replacement of the Goods, including legal fees on a solicitor and client basis.
- (b) In addition to ASTN's rights in Clause 13(a), ASTN may sue for any loss of profits and consequential damage it has suffered as a consequence of the Customer's refusal or failure to perform its obligations under this Agreement.

13. DIRECTORS' PROVISIONS

- (a) In consideration of ASTN, at the request of the Customer and its Directors entering this Agreement, the Directors:
 - (i) guarantee to ASTN the due and punctual performance and observance by the Customer of the terms of this Agreement; and

- (ii) indemnify Customer and agree to keep Customer indemnified from and against all actions, claims, demands, notices, losses, damages, costs and expenses of any nature whatsoever suffered or incurred by Customer by reason of any breach or non-performance by the Customer of any of the terms conditions of this Agreement.
- (b) The Directors' obligations shall not be subject to any prior notice to the Directors with regard to any default of the Customer.

14. NO WAIVER

No waiver by either party of the breach or non-performance of any term, condition or obligation under this Agreement shall be a waiver of any subsequent breach of or failure to perform the same or any other term, condition or obligation.

15. PAYMENT OF TAXES

All prices are subject to GST and GST will be charged unless otherwise specified. All prices are exclusive of GST, stamp duty, freight and delivery. **All dollar amounts specified are in US dollars unless stated otherwise.**

16. WHOLE AGREEMENT

This Agreement embodies all the terms and conditions of the transaction between the parties and the Customer acknowledges and agrees that no condition, warranty or representation express or implied is or has been given by ASTN, its servants or agents as to the condition, quality, design or operation of the Goods or their suitability or fitness for their ordinary or any special use or purpose and except for such terms and conditions implied by law and which may not be excluded.

17. SEVERANCE

If any clause or part of any clause is held to be invalid or unenforceable such invalidity or unenforceability shall be deemed eliminated or modified to the minimum possible extent necessary to make the remainder of the clause or the remaining clauses enforceable.

18. GOVERNING LAW AND JURISDICTION

This Agreement shall be governed by the laws of the Western Australia. The parties submit to the non-exclusive jurisdiction of the courts of that state.

19. DEFINITIONS

'**Agreement**' means this agreement of which these terms and conditions form part, together with the any annexures to the agreement.

'**Commencement Date**' means the date that the rental pursuant to this Agreement commences as detailed in Item C of the Schedule of Agreement Key Terms.

'**Directors**' means the Directors of the Customer

'**Final Payment**' means the amount specified at Item E under 'Options' of the Schedule of Agreement Key Terms.

'**Goods**' means the goods specified in the quote provided by ASTN.

'**GST**' has the meaning given in the A New System (Goods and Services Tax) Act 1999;

'**Parts**' means any and all appliances, parts, instruments, appurtenances, accessories and other equipment of whatever nature constituting part of the Goods or which may from time to time be incorporated or installed in, or attached to, the Goods.

'**Rent**' means the amount specified in Item E of the Schedule of Agreement Key Terms.

'**Schedule of Agreement Key Terms**' means the two pages of the Agreement headed 'Schedule of Agreement Key Terms'.

'**Term**' means the term specified in Item D of the Schedule of Agreement Key Terms.