

AMOCOM BROADBAND TERMS AND CONDITIONS

Dated January 2008

1. DEFINITIONS

In this Agreement, unless the context clearly indicates otherwise the following words and expressions shall have the meaning ascribed

- 1.1. **Acceptable Usage Policy** shall mean the usage policy as published on Amocom Broadband's web site at www.amocom.com. This policy may be amended, extended or replaced by Amocom Broadband from time to time.
- 1.2. **Access Provider** shall mean the company that provides the physical single Network Termination Point.
- 1.3. **Agreement** shall mean these Terms and Conditions, the Acceptable Usage Policy, Amocom Broadband's tariffs for the Service and the Amocom Broadband Contract Form, (each as may be amended, extended or replaced by Amocom from time to time) which together constitute a legally binding Agreement between Amocom Broadband and the Customer. The Agreement shall come into force on the date of installation of the customer equipment at the Installation premises.
- 1.4. **Amocom Broadband, we, or us** shall mean the provider of the Service, being Amocom Technologies Limited trading as Amocom Broadband and in this Agreement referred to as Amocom Broadband of Suite 3, River House, Blackpool Retail, Blackpool, Cork.
- 1.5. **Amocom Broadband Service** shall mean the active connection to the Internet, whereby the Customer agrees to purchase a specific grade of Internet connection from Amocom Broadband.
- 1.6. **Website** shall mean Amocom's Website, which is available at www.amocom.com.
- 1.7. **Authorised Installer** shall mean a person or company appointed by Amocom Broadband to install, adjust, maintain, repair or disconnect the Equipment.
- 1.8. **ComReg** shall mean the Commission for Communications Regulation, the national regulatory authority for the telecommunications market in Ireland.
- 1.9. **Consumer** means consumer as defined in the European Communities (Protection of Consumers in Respect of Contracts Made by Means of Distance Communication) Regulations, 2001 – i.e. a natural person who, as regards a distance contract, is acting for purposes which are outside that person's trade, business or profession.
- 1.10. **Subscriber or Customer or You** shall mean the party to whom Amocom Broadband is providing the Service and the required Equipment.
- 1.11. **Party** Shall mean the Subscriber and Amocom Broadband including their assignees (together the **Parties**);
- 1.12. **Customer Equipment** means all electronic, radio equipment, computer hardware, software, cabling, apparatus and facilities provided to the Customer to enable the Customer to connect to the service.
- 1.13. **Customer Agreement Form** means either the completed physical document, online form submitted by you to Amocom Broadband or Facsimile requesting provision of the Equipment and the Service or if you order by telephone, a form completed by the Amocom Broadband representative containing the details we require from you to enable us to provide you with the Service.
- 1.14. **Content** means any and all information, material and other content including but not limited to data, text, images, photographs, software, music video, sound, graphics, applications or database content supplied by you, us or any third party content provider which is contained in or forms part of the Service.
- 1.15. **Equipment** means any device or item to include all fittings, accessories and modifications thereto from time to time provided by Amocom Broadband as an essential part of providing the Service under this Agreement.
- 1.16. **Minimum Subscription Period** means the period of no less than twelve (12) months commencing on date of installation of the Equipment.
- 1.17. **Network** shall mean the telecommunications system owned and operated by Amocom Broadband in accordance with its license granted by ComReg.
- 1.18. **Network Connection** means all Amocom Broadband's cabling, interface panels, cabinets, systems apparatus, facilities and any other equipment, which may be utilised by Amocom Broadband to provide the Service.
- 1.19. **NTP** means a Network Terminating Point, which is the physical point at which traffic exits the Service.
- 1.20. **Installation Premises** means the location at which the Subscriber receives the Services and where the Equipment is installed
- 1.21. **Service** means an Internet Protocol (IP) based internet connectivity service provided by Amocom Broadband, connecting the subscriber to the Internet via Amocom Broadband's network, including any such additional services as may be subscribed to by the Subscriber.
- 1.22. **Subscription** shall mean the amount payable by the Subscriber to Amocom Broadband for the provision of Service and the use of the Equipment together with any Value Added Tax and any other taxes and/or any amounts a customer service representative may inform you of.
- 1.23. **Installation** shall mean the physical affixing of the equipment to the premises.
- 1.24. **Standard Installation** shall mean the usual equipment and time as determined by Amocom to complete the installation.
- 1.25. **Line of Site (LOS)** shall mean the establishment and requirement to have uninterrupted sight of Amocom base station from the installation Premises.
- 1.26. **Grades of Service** shall mean the speed and contention ratio as requested and agreed upon by both parties prior to the commencement of the service.
- 1.27. **Promotional offer** shall mean any subscription offers made to new or potential subscribers other than the mean subscription.

2. THE SERVICE & THE EQUIPMENT

- 2.1. In accordance of the Agreement, Amocom Broadband supplies the Service and required Equipment to the Subscriber, and grants the Subscriber the right to use the Equipment and the Service in accordance with all the terms as setout in this Agreement, the Subscriber hereby accepts such use on the terms and conditions as set out in this Agreement
- 2.2. Amocom Broadband provides the service to a single Network Terminating Point (NTP). Installation involves placing a Subscriber Module externally on the premises. An ethernet cable is used to connect the Subscriber Module to the Customer Equipment. A single power socket is required beside the NTP to power an adapter, which supplies power to the Subscriber Module.
- 2.3. Amocom Broadband reserves the right to charge an Installation charge for each standard installation of the equipment. Should it be necessary to install additional Equipment to enable the Subscriber to avail of the Service, the subscriber shall be notified prior to installation of the equipment and any costs associated with the additional Equipment and or labour costs must be borne by the Subscriber in addition to the Subscription.
- 2.4. Amocom Broadband will make all reasonable commercial efforts to maintain access to the Service and ensure that it is available for use by the Subscriber. However Amocom Broadband cannot be held responsible for accidental non-availability for outages of services, or for unforeseen interruptions to the Service.
- 2.5. The Amocom Broadband Service is provided utilizing license exempt spectrum on a noninterference/non-protected basis. This means while the Amocom Broadband system is not permitted to cause interference to other systems, it may not claim protection from interference from other systems operating in these bands. This may have implications for the quality of Service offered to Customers.
- 2.6. Where a Customer avails of a promotional offer and/or a joint offer with our partner(s), subject to eligibility and availability, alternative terms and conditions may apply.

3. The Subscriber acknowledges the basis of this Agreement is:

- 3.1. If the Subscriber is not the owner of the Premises on which the Equipment will be installed, it is the Subscriber's responsibility to obtain written consent from the owner of the Premises prior to installation. Amocom Broadband shall assume no liability whatsoever arising from the failure of the Subscriber to procure such consent. The Subscriber acknowledges and agrees that it shall fully and effectively indemnify and keep Amocom Broadband indemnified for any costs incurred as a result of the Subscriber's breach of this Clause.
- 3.2. In order to facilitate the Installation of the Equipment, the Subscriber shall ensure access to the premises to Amocom Broadband or an Authorised Installer to allow for installation and/or repairs and maintenance of the Equipment. Should the Subscriber fail to grant access to the Premises, the Subscriber shall be responsible for all reasonable costs associated with the labour time lost.
- 3.3. All Equipment shall remain the property of Amocom Broadband and the Subscriber does not acquire any right, title or interest to the Equipment during or after termination of this Agreement. Any and All risk of loss and damage to the Equipment shall, from the date of delivery to the Subscriber, lie with the Subscriber.

4. The Subscriber shall

- 4.1. Not move the Equipment from the site or location of the installation premises for any reason without the prior written consent of Amocom Broadband, which consent shall not be unreasonably withheld.
- 4.2. Notify Amocom Broadband in writing if the subscriber wishes to relocate the Equipment to a new installation address. Amocom Broadband provides no warranty or any form of guarantee as to the connectivity to the Services at such new premises, and assumes no liability whatsoever if it is unable to provide the Services at the new premises. If the Service is not available at the new premises, this Agreement shall terminate upon the date upon which Amocom Broadband is given access to de-install the Equipment from the Premises. If such termination occurs prior to the expiry of the Minimum Subscription Period, the Subscriber shall be liable in full for the charges in respect of the remainder of the Minimum Subscription Period.
- 4.3. Not make any alteration or modification to the Equipment, and any and all unauthorized changes or alterations to the equipment shall be seen as notification to terminate the Agreement and a charge shall be levied for restoration of the equipment to default settings as well as any early termination penalties that may apply.
- 4.4. Notify Amocom Broadband of any service issues on the customer care number 021-467-1677. Up-to-date Customer Care details shall be maintained on Amocom Broadband's Web Site. Critical Network issues and outages shall be reported via Amocom Broadband's customer care channels. Amocom Broadband shall take action to resolve all such issues as quickly as is reasonably possible to do so. The customer care channel shall be used as the mechanism to keep the Customer up to date on progress.

5. PAYMENT OF CHARGES

- 5.1. Amocom Broadband's tariffs for the Service(s), as amended from time to time, also form part of the Agreement.
- 5.2. All Corporate Quoted tariffs shall be exclusive of Value Added Tax (VAT). All Residential Quoted tariffs shall be inclusive of Value Added Tax (VAT)
- 5.3. In All cases the Subscriber shall be charged quarterly in advance for usage of the Amocom Broadband Service, except where Amocom has agreed to other terms in advance of the conclusion of this agreement. Applicable Value Added Tax shall be stated clearly in the bill.
- 5.4. All sums due to us shall be paid in full by direct debit mandate. Provision of the Service shall be conditional on the Customer making all necessary arrangements to pay for the Service by such means.
- 5.5. Should the Customer disagree with any charges shown on the Customer's bill, the Customer is requested to write or phone us within fourteen days of the bill date of a disputed bill. If the charges are incorrect, we shall amend and re-issue the bill with a new date for payment. Otherwise the full amount remains due.
- 5.6. We reserve the right to alter such tariffs and shall notify the Customer of such a change by notice in writing and/or via national newspapers and/or on the customer bill and/or on the Amocom Broadband Web Site within a reasonable period in advance of the effective date
- 5.7. Amocom Broadband shall be entitled and is hereby specifically authorised to, either immediately cancel this Agreement and/or suspend the supply of Services to the Subscriber and/or to recover the Equipment (as provided for in this Agreement), upon failure by the Subscriber to pay the Subscription or if the Subscriber is in breach of the terms of this Agreement.
- 5.8. Amocom Broadband shall apply an administration charge of €8.00 (inclusive of VAT) to the subscriber should the Subscriber's payment fail for any reason, for each and every event of failure. This administration charge may be changed / amended from time to time.
- 5.9. Amocom Broadband shall impose a reconnection levy of €25.00 exclusive of Value Added Tax (VAT) to subscribers if that service was suspended for non-payment. This levy must be paid prior to the re-establishment of the service to the subscriber

6. SUBSCRIBER'S RESPONSIBILITIES AND USE OF THE SERVICE

- 6.1. As a Subscriber, you acknowledge and agree that all use of the Service is subject to Amocom Broadband's Acceptable Usage Policy which can be accessed on www.amocom.com. You as the subscriber are responsible and liable for all electronic communications and content sent or received via the service.
- 6.2. The Customer undertakes not to use the Service or the Equipment:
 - 6.2.1. For any improper, immoral or unlawful purpose, nor cause any nuisance by the use of the Service, nor allow others to use the Service for any of the foregoing purposes; or
 - 6.2.2. For the transmission of any material which is, may be or is intended to be a hoax or is of a defamatory, offensive, abusive, obscene or menacing nature; or
 - 6.2.3. For the infringement of intellectual property rights or trade secrets of another party; or
 - 6.2.4. For the processing of automated personal data as defined in the Data Protection Act, 1988.
 - 6.2.5. In a manner which in the opinion of Amocom Broadband, in its absolute discretion, makes demands on the service or Amocom Broadband's network or facility which are deemed of an abnormal or heavy nature when compared with the average use for the grade of service purchased from Amocom Broadband
 - 6.2.6. Observe the provisions of Amocom Broadband's Acceptable Usage Policy as amended from time to time, and made available to the customer on www.amocom.com
 - 6.2.7. Comply and is bound by all conditions of the license under which the Equipment is provided.
 - 6.2.8. Comply with all reasonable instructions given to the Customer by Amocom Broadband in relation to the use of the Services.
 - 6.2.9. Indemnify and hold Amocom Broadband harmless against all liabilities, claims, damages, losses, expenses and proceedings howsoever arising from or in any way connected with the use of the Service or the Equipment.

- 6.2.10. Inform Amocom Broadband of change of name, address, email address, telephone number and all other details enabling provision of Service.
 - 6.2.11. Ensure that all persons having access to the Service or the Equipment comply with the terms and conditions herein stated, and are responsible for any usage of any person having such access.
 - 6.2.12. Review the Acceptable Usage Policy on Amocom Broadband's Web Site, on a regular basis and will accordingly accept responsibility for keeping up-to-date with all such changes
 - 6.2.13. Acknowledge the right of Amocom Broadband to make such amendments as it thinks fit from time to time.
- 6.3. The Customer accepts that Amocom Broadband has neither control over the content of, nor is responsible for, information that is transmitted and made available on the Internet and that the security of the Internet as a communication medium, or as a medium for purchasing or payment cannot be guaranteed.
 - 6.4. Subscribers release Amocom Broadband from liability or responsibility for any direct, indirect, incidental, or consequential damages suffered by any Subscriber in connection with their use of or inability to use the Service including, but not limited to, damages from loss of data resulting from delays, non-deliveries, mis-deliveries, or service interruptions, or due to inadvertent release or disclosure of Content or other information sent by them even if the same is caused by Amocom Broadband's own negligence.
 - 6.5. Amocom Broadband shall use all reasonable endeavors to ensure that the Service is available for use by the Customer in accordance with the standards then prevailing and which relate to the Service as set out in Amocom Broadband's service literature, but shall not be liable for any delay, failure, interruption, or deterioration therein, howsoever arising.
 - 6.6. Amocom Broadband monitors Customer usage to ensure equal and fair usage for all Amocom Broadband's Customer base. In order to ensure Customer quality per grade of service, Customers whose usage is particularly heavy for their selected grade, may experience throughput limitations. In order to facilitate heavy usage Customers, Amocom Broadband offers a range of grades of service and reserves the right to adjust grade of service to reflect changes in pattern of usage. In the event of such an adjustment, Amocom Broadband shall notify the Customer of the change electronically. Should the Customer wish to make representations in relation to the change, he should do so as soon as reasonably practicable.

7. SUSPENSION AND TERMINATION

- 7.1. Amocom Broadband may terminate the Agreement upon 60 days written notice to the customer and any such termination shall be effective on the expiry of such notice period, such notice to expire on or after the end of the Minimum Period.
- 7.2. Notwithstanding such termination any Customer of the Amocom Broadband Service who seeks to terminate shall be liable to pay for up to and until the next billing date following such termination.
- 7.3. Amocom Broadband may at any time, without notice to you, immediately terminate this Agreement, or suspend the Service, take possession of the Equipment, recover from the Subscriber payment of all such amounts due at the date of cancellation, retain all monies already paid by the Subscriber and claim as agreed pre-estimated liquidated damages all outstanding amounts which would have been due until expiry of this Agreement and to recover all costs from the Subscriber, including legal costs where;
- 7.4. Without prejudice to its rights under this Agreement Amocom Broadband shall have the right to terminate this Agreement forthwith, by ten days written notice in the event that the Customer is in material default of any of the Customer's obligations under this Agreement.
- 7.5. Amocom Broadband shall have the right forthwith to terminate the Agreement for due reason, including, but not limited to:
 - 7.5.1. if the Customer is in breach of any term of the Agreement or any information supplied by the Customer to Amocom Broadband is false or misleading.
 - 7.5.2. the Subscriber fails to pay all or any part of the Subscription or any other charges when due;
 - 7.5.3. the Subscriber is suspected of involvement with fraud or acts which are of defamatory, offensive, abusive, obscene, menacing, unsuitable or unlawful character in connection with use of the Service;
 - 7.5.4. the Subscriber is unable to pay its debts or in an event of bankruptcy, insolvency or other contractual incapacity of the Subscriber
 - 7.5.5. if for technical or physical reasons it is not possible to provide the Service
- 7.6. If the Subscriber terminates this Agreement before the end of the Minimum Subscription Period other than in the circumstances outlined in Clause 6.3 and Clause 6.6, the Subscriber must immediately pay the balance of the Subscription due for the remainder of the Minimum Subscription Period.

8. INSURANCE

- 8.1. The Subscriber shall, unless otherwise agreed to by the Parties in writing, for the period of this Agreement, cover the risk of loss and damage to the Equipment.
- 8.2. If the Equipment or any part thereof is lost, stolen or damaged, irrespective of the cause, then the Subscriber shall immediately notify Amocom Broadband in writing within three (3) days of the event or of the Subscriber becoming aware of any such event whichever is the earlier.

9. INDEMNITY AND LIMITS OF LIABILITY

- 9.1. The Subscriber hereby indemnifies and holds Amocom Broadband harmless from and against any and all losses, expenses (including all reasonable legal fees) injury, damage, costs, demands, liabilities fines, penalties and claims of whatsoever nature and howsoever arising from or in connection with this Agreement, including without limitation in connection with the use of with the Equipment, or the Services and whether or not such claims are caused by any act or omission of the Subscriber or any third party.
- 9.2. Liability is neither restricted nor excluded for:
 - 9.2.1. death or personal injury resulting from any negligent act or omission by Amocom Broadband or the acts or omissions of Amocom Broadband representatives or contractors while acting on its behalf; or
 - 9.2.2. Amocom Broadband shall not be liable to the Customer or any third party in contract, tort or otherwise for any financial loss whatsoever or for any indirect or consequential loss howsoever arising in relation to the use of the Service or the Equipment or any failure or error or default by us in the provision thereof, or otherwise in connection with this Agreement. Without prejudice to the generality of the foregoing, any and all liability arising under the Sale of Goods and Supply of Services Act 1980 is excluded to the fullest extent permitted by law.
 - 9.2.3. Amocom Broadband shall not be liable for any loss or damage of any kind caused by the failure of the Service or Equipment due to the incompatibility with the Service of hardware, software, and/or equipment supplied by the Customer.
- 9.3. Nothing in this Agreement is intended to limit any rights you may have as a consumer under common law or other statutory rights which may not be excluded.
- 9.4. Amocom Broadband shall have no liability under this Agreement for the acts and omissions of other telecommunication operators and/or Internet Service Providers.

- 9.5. Amocom Broadband shall not be liable for claims arising out of a breach in the security or privacy of messages transmitted using the Service provided by Amocom Broadband unless the breach results from the willful act or omission of Amocom Broadband or its employees.
- 9.6. In the event of Force Majeure, neither party shall be held in breach of its obligations hereunder (except in relation to obligations to make payments) nor be liable to the other party for any loss or damage which may be suffered by the other party due to any cause beyond its reasonable control including, without limitation, any act of God, failure, interruption of power supplies, flood, drought, lightning or fire, strike, lockout, trade dispute or labour disturbance, acts or omissions of Government, highway authorities or other circumstances beyond the control of the parties.
- 9.7. This Clause 9 shall continue to apply notwithstanding termination of this Agreement.

10. ASSIGNMENT

- 10.1. Amocom Broadband shall be entitled to assign, novate or transfer to any third party at its absolute discretion all or any of its rights under this Agreement, including its rights of ownership in the Equipment, without the consent of the Subscriber, to any third party. The Subscriber shall not assign or transfer any of its rights or obligations under this Agreement without the prior written consent of Amocom Broadband.

11. JURISDICTION

- 11.1. This Agreement shall in all respects be governed and construed in accordance with the laws of the Republic of Ireland and all disputes, actions and other matters in connection therewith shall be determined in accordance with such laws. The Courts of Ireland shall have jurisdiction to deal with any proceedings in respect of this Agreement.

12. GENERAL TERMS

- 12.1. None of the provisions of this Agreement shall be interpreted as to deprive you of any rights you may have as a consumer under mandatory Irish law.
- 12.2. Each of the Parties chooses, for the purposes of the giving of any notice, the serving of any process and for any other purposes arising from this Agreement, their respective addresses as set forth on the Customer Authorisation Form.
- 12.3. Amocom Broadband reserves the right to forward correspondence to the Customer by electronic mail, at the email address provided by the Customer.
- 12.4. Notices given under this Agreement (including invoices sent by Amocom Broadband to the Customer) must be in writing and may be delivered by hand or sent by telex, facsimile, email, or first class post to the addressee at the following addresses
 - 12.4.1. to Amocom Broadband at the address of the Amocom Broadband office shown on the Customer Contract Form or any alternative address which Amocom Broadband notifies to the Customer;
 - 12.4.2. to the Customer either to the Customer's billing address as provided on registration, or place same on the Amocom Broadband's Web Site
- 12.5. All written correspondence from Amocom Broadband shall be deemed served 48 hours after posting or on earlier proof of delivery.
- 12.6. Any prices, quotations and descriptions made or referred to on the Amocom Broadband website are subject to availability, do not constitute an offer and may be withdrawn or revised at any time prior to our express acceptance of your order.
- 12.7. This Agreement contains the entire Agreement between the Parties and no party shall be bound by any undertakings, representations, warranties, promises or the like not recorded herein. No alteration, cancellation, variation of, or addition hereto shall be of any force or effect unless reduced to writing and signed by all Parties to this Agreement or their duly authorised representatives.
- 12.8. No indulgence, leniency or extension of time which Amocom Broadband may grant or show to the Subscriber, shall in any way prejudice Amocom Broadband or preclude Amocom Broadband from exercising any of its rights in the future.
- 12.9. Failure by either party to exercise or enforce any right conferred by this Agreement shall not be deemed to be a waiver of any such right and does not operate so as to bar the exercise or enforcement thereof, or of any such right or any other right on any later occasion.
- 12.10. Any deficiency in the Customer's authority to avail of the Service or to use the Equipment shall not preclude reliance by Amocom Broadband on any of its rights under this Agreement.
- 12.11. Amocom Broadband reserves the right to revise the terms of this Agreement at anytime. Amocom Broadband shall indicate on its website the date of the last revision of the terms of this Agreement. Such changes will take immediate effect when they are posted on this website.
- 12.12. The Subscriber acknowledges that it has read, understood and agrees to be bound by the terms of this Agreement. The Subscriber further acknowledges that this Agreement was fully completed and the particulars set forth therein are true and correct.

13. CONTACT DETAILS

- 13.1. if you wish to contact us, our contact details are set out on the Website at www.amocom.com