

APPENDIX D
VIRGIN BROADBAND
ACCEPTABLE USE POLICY

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1 ABOUT THIS POLICY

- (a) The Virgin Broadband Acceptable Use Policy applies to each of the following *services*.
 - (i) Broadband at Home;
 - (ii) Mobile Broadband;
- (b) This policy is set out below - please read it carefully. *Your* use of the *service* is subject to the following rules and guidelines contained in this policy.
- (c) The meaning of the words printed *like this* is set out at the end of this policy, the *service description* for the relevant *service*, the *general terms* or the *dictionary*. If a definition in this policy is inconsistent with a definition in the *service description* for the relevant *service*, the *general terms* or the *dictionary*, the definition in this policy applies.

2 GENERAL

- (a) This policy is designed to ensure that *your* use of the *service* does not break any laws, hinder the efficient operation of *our network*, interfere with the rights of *Virgin Broadband customers*, or interfere more generally with the rights of Internet users.
- (b) *You* are responsible for ensuring that use of the *service* and *your Virgin Broadband account* complies with this policy. *You* are also responsible for any use of the *service* even if, for example, it was used, with or without *your* consent, by a friend, family member, guest or employee who gains access to the *service* or *your Virgin Broadband account*.
- (c) If *we* amend this policy, *we* may notify *you*, and *you* hereby consent to *us* sending *you* notices, by using one or more of the following methods:
 - (i) email (to *your primary email address*),
 - (ii) mail (to the last address *you* have given *us*).

We will also place a notice on *our* website:
www.virginbroadband.com.au
- (d) *You* should consult this policy regularly to ensure that *your* activities conform to the most recent version.
- (e) If there is an inconsistency between any other part of *your agreement* and this policy, this policy will apply.

- (f) If *you* become aware of any violations of this policy by other Virgin Broadband users *you* should contact *us*.

3 ILLEGAL ACTIVITY

You must not use the *service* for any activity that breaches any law or violates any local, state, federal or international law, order, regulation or industry code of practice.

Prohibited activities include (but are not limited to):

- (a) posting, disseminating, or in some cases accessing, *content* which is unlawful, including:
 - (i) *content* that is or would be classified by the *Classification Board* as *RC rated* or *X18+ rated* and that is or would be classified by the *Classification Board* as *R18+ rated* where a *restricted access system* is not in place,
 - (ii) *content* which violates the copyright or other *intellectual property rights* of others. *You* assume all risks regarding the determination of whether material is in the public domain, or
 - (iii) *content* that defames, harasses or abuses anyone or violates their privacy,
- (b) pyramid or other illegal soliciting schemes, or
- (c) any fraudulent activities, including impersonating any person or entity or forging anyone else's digital or manual signature.

4 SECURITY

- (a) *You* are responsible for any misuse of the *service*, as set out in clause 2(b) above. *You* must take reasonable steps to ensure that others do not gain unauthorised access to the *service* and *your Virgin Broadband account*.
- (b) The *service* must not be used to obtain or attempt to obtain unauthorised access to any computer, system or *network*. If *you* do not have authorisation, prohibited activities include (but are not limited to):
 - (i) accessing, monitoring or using any data, systems or *networks*,
 - (ii) probing, scanning or testing the vulnerability of a system or *network*,

- (iii) breaching any security or authentication measures for a system or *network*,
 - (iv) accessing the account or private information of any other person or entity,
 - (v) accessing any server in violation of any acceptable use policy of that server, including any attempt to do any of the things mentioned in paragraphs (i) to (iv) above.
- (c) *You must not:*
- (i) use (or attempt to use) or distribute tools designed for compromising security including, but not limited to, password guessing programs, cracking tools, packet sniffers or *network* probing tools,
 - (ii) knowingly transmit or disseminate any information or software, which contains a virus or other harmful feature,
 - (iii) use (or attempt to use) the *service* in a manner that may interfere with the technical operation of the *service* or any other computer, system, *network* or telecommunications services, including (but not limited to) denial of service attacks, flooding of a *network*, overloading a service, improper seizing and abuse of operator privileges and attempts to ‘crash’ a host, or
 - (iv) interfere (or attempt to interfere) with the regular workings of *our* systems or *network* connections.
- (d) *You* are solely responsible for the security of any device *you* choose to connect to the *service*, including any data stored on that device.
- (e) *We* recommend against enabling file or printer sharing of any sort. *We* recommend that any files or services *you* do choose to make available for remote access be protected with a password or other appropriate measures to prevent unauthorised access.
- (f) *You* must notify *us* immediately of any unauthorised or attempted unauthorised use of *your service* and any other breach or attempted breach of security.

5 RISKS OF THE INTERNET

- (a) Some activities that *you* can perform when accessing the Internet may be harmful or cause *loss* to *you*, other people that may access *your service*, or *your* equipment. Typical activities include (but are not limited to):

- (i) *downloading content* (including receiving emails) from the Internet which may introduce viruses or other harmful features to *your* computer,
 - (ii) purchasing goods or services using the Internet,
 - (iii) transmitting confidential information over the Internet (such as *your* credit card number or other *personal information*), or
 - (iv) accessing and viewing *content* on the Internet or otherwise available through the *service* that may be offensive to some individuals, or inappropriate for children (for example, it is possible to obtain access to *content* that is pornographic, offensive and/or unsuitable for children).
- (b) *You* bear all risk associated with the activities referred to in paragraph (a) above, and *we* do not have any liability for any claims, *losses*, actions, damages, suits or proceedings arising out of or otherwise relating to such activities.
 - (c) *You* may minimise the risk of accessing illegal or offensive *content* as well as managing use of the Internet by using a *filtering solution*. *Filtering solutions* are available at: www.iaa.net.au.
 - (d) *You* have the right to make complaints to the Australian Communications and Media Authority about Internet *content* which is or would be classified by the *Classification Board* as *X18+ rated*, *RC rated*, or *R18+ rated* and does not have a *restricted access system* in place.

6 **CONTENT PUBLISHING**

- (a) *You* are solely responsible for any *content* that *you* publish via websites, email, newsgroups, *online forums* or other publishing mediums accessed via the *service*.
- (b) *You* must not publish material that is or would be classified by the *Classification Board* as *RC rated* or *X18+ rated* via websites, email, newsgroups or other publishing mediums accessible via the *service*.
- (c) *You* must take appropriate precautions to prevent minors from accessing or receiving any *content* *you* have published that may be inappropriate for them. This includes implementing a *restricted access system* on *content* that is or would be classified by the *Classification Board* as *R rated*. *We* also encourage *you* to use appropriate warnings and / or labelling systems in respect of *content* which is likely to be considered unsuitable for children.

- (d) *We reserve the right to block access to, to remove, or to refuse to post any content, in whole or in part, that we, in our sole discretion, deem to be offensive, indecent, or otherwise inappropriate regardless of whether such content or its dissemination is unlawful. This includes (but is not limited to) obscene material, fraudulent or deceptive statements, threatening, intimidating or harassing statements, or material which violates the privacy rights or intellectual property rights of others, or is likely to be defamatory of another person.*
- (e) *Commonwealth legislation allows the Australian Communications and Media Authority to direct us to remove certain prohibited or potentially prohibited content from our servers or to prevent users from accessing certain Internet content. We may take any steps necessary in order to ensure compliance with any relevant industry code of practice, or notification or direction from the Australian Communications and Media Authority, including removing any content (including part or all of a website) from our servers, blocking access to newsgroups, closing or suspending your Virgin Broadband account, filtering the Internet content made available to you or restricting access to a particular website. We may take these steps at any time and without notice to you.*
- (f) *Commonwealth legislation allows copyright owners or their agents to direct us to remove copyright materials from our servers or to prevent users from accessing copyright materials. We may take any steps necessary in order to ensure compliance with a notification from a copyright owner or their agent, including removing any content (including part or all of a website) from our servers, closing or suspending your Virgin Broadband account, filtering the Internet content made available to you or restricting access to a particular website. We may take these steps at any time and without notice to you.*
- (g) *We are under no obligation to monitor transmissions or published content on the service. However, we (or our agents) have the right to monitor such transmissions or published content from time to time and to disclose that content.*
- (h) *By using the service to reproduce, publish, display, transmit or distribute content, you warrant that the content complies with this policy and authorises us (or our agents) to reproduce, publish, display, transmit and distribute such content as necessary for us to deliver the content in a timely manner.*

7 ELECTRONIC MESSAGING AND SPAM

- (a) *You must not use the service to spam, and/or send bulk and/or unsolicited messages. This includes, but is not limited to commercial advertising, informational announcements, charity requests, petitions*

for signatures, chain letters and political or religious messages. *You* must only send such a message to those individuals who have explicitly requested it.

- (b) The *service* must not be used to:
 - (i) send messages to any individual or entity who has indicated that he/she/it does not wish to receive messages from *you*,
 - (ii) collect or redirect responses from unsolicited messages sent from accounts on other Internet hosts or messaging services which violates this policy, or the equivalent policy or any other policy of any other Internet service provider or web site. Moreover, unsolicited messages sent from accounts on other Internet hosts or messaging services may not direct the recipient to any web site or other resource that uses *our network*.

- (c) *You* must not:
 - (i) obscure, alter or delete the source of messages that *you* send or forge message headers,
 - (ii) send numerous copies of the same or substantially similar messages, or send very large messages or files, to a recipient with the intent to disrupt a server or account (for example, ‘mail bombing’),
 - (iii) send chain letters, whether or not the recipient wishes to receive such mailings.

- (d) *We* are not responsible for forwarding or storing messages sent to any *Virgin Broadband account* that has been suspended or cancelled. Such messages may be returned to sender, ignored, deleted, or stored temporarily at *our* sole discretion.

- (e) *We* have responsibilities under the *Spam Act 2003 (Cth)* and the Internet Industry Association (IIA) Spam Code to take steps which attempt to minimise the amount of *spam* both being originated in Australia and being delivered to Australian customers. To assist *us* with this, *we* may:
 - (i) restrict *your* ability to forward emails;
 - (ii) limit *your* access to the *service* to a closed user group relevant to *your* use of the *service*;
 - (iii) scan *our* allocated IP address ranges for misconfigured mail and proxy servers and suspend *your service* if *you* fail to rectify any problem found within a reasonable period.

We may also require *you* to take actions to comply with, or which assist *us* to comply with, the *Spam Act 2003* (Cth) or the IIA Spam Code.

8 ONLINE FORUMS

- (a) This clause applies to *online forums*, in addition to clause 6.
- (b) Messages posted to an *online forum* must comply with the written charters for that forum. *You* are responsible for determining the policies of a given forum before posting a message to it. Data files may only be posted to *online forums* that specifically permit this.
- (c) Posting or cross-posting the same or substantially similar messages to more than eight *online forums* is prohibited.
- (d) *You* must not disrupt or attempt to disrupt *online forums* by posting a large number of messages that contain no substantive *content*. Disruption occurs when normal discussion in the group is significantly hindered.
- (e) *You* must not use the *service* to connect to an *online forum* from which *you* have been previously banned.

9 AUTOMATED APPLICATIONS

The *service* is provided for interactive use. However, if automated programs or programs that maintain a persistent connection to a remote service are used, they must only be used when *you* are physically present at the computer. These activities include (but are not limited to) automated file *downloading*, IRC ‘bots’, continuous streaming media and peer-to-peer file sharing applications.

10 VIOLATION OF ACCEPTABLE USE POLICY

- (a) If *you*, or someone with access to the *service*, use the *service* in a way that *we*, in *our* sole discretion, believe violates this policy or any other term of *your agreement*, *we* may take any responsive action *we* deem appropriate.
- (b) Such actions may include (but are not limited to) temporary or permanent removal of *content* and *content* publishing capabilities, filtering of Internet transmissions and the immediate suspension or cancellation of all or any portion of the *service*.
- (c) *We* have no liability for any such responsive actions and may take any other legal or technical action *we* deem appropriate, including taking action against offenders to recover the costs and expenses of identifying them. If *your* use of the *service* causes a *loss* to third parties and *we* are required to pay compensation, *we* may require *you* to reimburse *us*.

- (d) *We* are not obligated to regularly monitor *your* usage of the *service* (including any *content* posted, disseminated or accessed by *you*), however *we* reserve the right to monitor *your* use of the *service* to identify violations of this policy, and to protect *our network*, the other users of this *service*, and other Internet users.
- (e) *We* reserve the right to investigate suspected violations of this policy, including the gathering of information from the user(s) involved and the complaining party, if any, and examination of transmissions and material on *our* servers and *network*. During an investigation, *we* may suspend the *Virgin Broadband account(s)* involved, interrupt transmissions and/or remove material that potentially violates this policy.
- (f) In order to enforce this policy, *you* authorise *us* (or *our* agents) to cooperate with:
 - (i) law enforcement authorities in the investigation of suspected criminal violations, and
 - (ii) system administrators at other Internet service providers or other *network* or computing facilities.

Such cooperation may include *us* providing, for example, the username, IP address or other identifying information about a user.

- (g) Upon *cancellation* of a *Virgin Broadband account*, *we* are authorised to delete any files, programs, data and email messages associated with the *Virgin Broadband account*.
- (h) Any failure by *us* to enforce this policy, for whatever reason, shall not be construed as a waiver of any right to do so at any time.
- (i) *You* agree that, if any portion of this policy is held invalid or unenforceable, that portion will be construed consistent with applicable law as nearly as possible, and the remaining portions will remain in full force and effect.
- (j) This policy is governed by the laws of the Commonwealth of Australia and the laws of the state or territory in which *you* normally reside. *You* and *we* submit to the exclusive jurisdiction of the courts of the Commonwealth, and its states and territories.

11 **COMPLAINTS ABOUT UNAUTHORISED CONTENT**

If *you* wish to notify *us* of a possible breach of copyright, please contact the Copyright Officer using the details listed below.

CONTACT DETAILS

Customer Service	By email – support@virginbroadband.com.au By phone – 1300 555 100
National Relay Service	133 677
Translating and Interpreting Service	131 450
Copyright Officer	legal@virginbroadband.com.au