



## TALK CHEAP with Your Broadband Phone Service



Please complete the following and fax  
back to **(07) 4755 0849**,  
PO Box 3537 Hermit Park Qld 4812  
Phone: 1300 762 568

### Customer Terms and Conditions

## Terms & Conditions

### 1. General Terms

- 1.1. The Terms and Conditions set out herein constitute the agreement between service provider Nettalk ACN 111 975 967 (hereinafter referred to as "Nettalk" "We", "us", "the Company") and the user ("Customer", "user", "you") for voice and data communications. Activating a Nettalk VoIP Service is considered acknowledgement of the Terms and Conditions in this agreement and that you are of Legal age (18 years) to enter such agreement.
- 1.2. We reserve the right to modify these Terms and Conditions at any time and we will publish the changes on the website and send each customer the relevant modified sections which will take effect on the date specified in the correspondence.
- 1.3. You acknowledge that we will take all reasonable steps to ensure you receive the voice and data service however; this service is not free from faults or interruptions. There are factors that must be considered when applying for this service. You must ensure that you have a Broadband internet connection that supports the bandwidth requirements of the service. You must also acknowledge that certain factors will affect the performance of your service, such as codec choice, network congestion, maintenance and geographic locations.
- 1.4. Changes to your Customer personal details must be advised to Nettalk immediately.

### 2. Service

- 2.1. Service is described as a VoIP (Voice over Internet Protocol) Broadband Phone service. Transmitting your telephone calls via packet linked routes over the internet.
- 2.2. Lawful use is a condition of this agreement, you will ensure that all accounts will be paid when due and you with/and/or any other party who accessed your account comply at all times with all laws and regulations, government or statutory authority. You must not transmit, distribute or otherwise publish on the service any defamatory, libelous, abusive material or material that could give rise to civil or criminal proceedings, if this is the case Nettalk will not be responsible for any associated costs.
- 2.3. Loss of service due to power failure will render your Internet modem and your VoIP device inoperable, these units need power to operate you may choose to have a UPS (uninterrupted Power Supply) to protect your system for a specific time period. We recommend you use your PSTN line or Mobile to call emergency services in this situation.
- 2.4. Nettalk reserves the right to refuse, suspend or terminate any service due to unlawful use, default payment, or any other reason at its sole discretion.
- 2.5. Nettalk hardware devices are not locked to Nettalk and may be at anytime reconfigured for other suitable purposes or VoIP services.
- 2.6. Nettalk products and services must not be distributed without prior written consent by way of Agreement or reseller Agreement.

### 3. Accounting – Charges & Billing

- 3.1. All prices are inclusive of GST unless otherwise indicated.
- 3.2. International customers remain liable for any due Australian GST (Goods and Services Tax) or other applicable government charges, despite their geographic location.

### 3.3. Post-pay service

- 3.3.1. Customers will be billed on the monthly anniversary of the service by registered credit or debit card for the total amount outstanding on the current months invoice.
- 3.3.2. Upon activation of a post-pay service, the customer must provide a valid credit or debit card number issued by an approved credit provider or completes a Direct Debit Authorisation form.

### 3.4. Pre-pay service

- 3.4.1. Customers in the instance that their account is in arrears due to insufficient credits for monthly service charges the total accumulated service charges will be deducted from the customer's next credit payment applied to the account.
- 3.4.2. Customers with a pre-pay service whom have no account credits will continue to be charged any monthly charges until account is closed by way of notification (refer to 11.1) Payments for pre-pay account credit can be made via Credit Card, Cheque or Direct Deposit. Details for all available payment methods will be sent to the customer by email upon activation of Service and also available on request.
- 3.5. Call charges - local, interstate, international and mobile are listed on the website. VoIP calls between Nettalk customers are free from Nettalk call charges regardless of user's geographical location.
- 3.6. All timed calls are charged on a per second basis and with no flag fall charges. All International call rates are subject to change without notice.
- 3.7. All line rental accounts are subject to a once-off service activation fee of thirty nine dollars and 95 cents (\$39.95) AUD for Residential Customers and forty nine dollars and 95 cents (\$49.95) AUD for Business Customers.
- 3.8. All line rental charges and statutory charges are paid in advance.

### 4. Complaints Resolution Procedure

- 4.1. Any dissatisfaction, concerns or complaints regarding Nettalk services should be addressed by contacting us on 1300 762 658. Should you remain dissatisfied with our response, please forward a description of the issue in writing to 'Nettalk Customer Relations' by way of details on contact page.
- 4.2. Upon receipt of your complaint, every effort will be made by Nettalk to resolve your concerns and reach a satisfactory conclusion for both parties.
- 4.3. The Telecommunications Industry ombudsmen (TIO) are an independent body that investigates complaints from business and residential customers concerning telephone services. As a telecommunications provider, Nettalk is required by law (Telecommunications Consumer Protection and Service Standards Act 1999 (The Act) to be a member of the TIO scheme. Should the customer remain dissatisfied with Nettalk attempts to resolve the dissatisfaction of the user, the customer may choose to forward their concerns to the Telecommunications Industry Ombudsmen for independent investigation. Alternatively you may contact the office of fair trading in your state or territory for investigation.

### 5. Emergency Services (000 Dialling)

- 5.1. In the event of a power outage/failure you will not be able to use your Broadband phone service which means you will not be able to call 000 Emergency numbers.
- 5.2. After a power disruption you may be required to reset or reconfigure your modem and or your Analogue Telephone Adaptor.



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- 5.3. Should there be an outage of service and you are not able to make 000 calls we suggest using a PSTN line or a Mobile Phone if available.
- 5.4. You acknowledge that you require a Broadband Internet connection to operate a Nettalk VoIP service and that the reliability of your Internet Service Provider will affect your VoIP service.
- 5.5. You acknowledge that the suspension of your account will affect your service and you will not be able to make 000 calls.

#### 6. Privacy

- 6.1. Nettalk will secure the personal information we collect when registering your account. This information is for Nettalk administration and accounting purposes only. All personal information held by Nettalk is available for perusal upon request by the individual.
- 6.2. Nettalk will not share this information with a third party, with the exception for parties detailed in 6.3 (officials).
- 6.3. Nettalk will comply with any lawful request for access to this information by any official statutory body with legally binding communication. This may occur without your knowledge.
- 6.4. You acknowledge that Nettalk will send your voice and data information over the public network, ie: the internet. Nettalk is not liable for any lack of privacy that may be experienced with regard to the service.

#### 7. Copyright

- 7.1. The service and device and any firmware or software used to provide the service, or provided to you in conjunction with providing the service, or imbedded in the device, and all services, information, documents and materials on the Nettalk website are protected by trademark, copyright or other intellectual property laws and international treaty provisions. All websites, corporate names, service marks, trademarks, trade names, logos and domain names (collectively "marks") of Nettalk are and shall remain the exclusive property of Nettalk. Nothing in this agreement shall grant you the right or license to use any such marks.

#### 8. Disclaimer of Damages

- 8.1. In no event shall Nettalk, its officers, Directors, Employees, affiliates or Agents or any other service provider who furnishes services to customer in connection with this Agreement or the service be liable for any direct, incidental, indirect, special, punitive, exemplary or consequential damages or for any other damages including but not limited to loss of data, loss of revenue or profits, or damages arising out of or in connection with the use or inability to use the service including the inability to be able to dial 000 or to access emergency service personnel through the service. The limitations set forth herein apply to claims founded in breach of contract, breach of warranty, product liability.
- 8.2. Nettalk makes no warranties, express or implied, including but not limited to, any implied warranties of merchantability, fitness of the service for a particular purpose, Title or non-infringement or any warranty arising by usage of trade, course of dealing or course of performance or any warranty that the service will meet the customers requirements, without limiting the foregoing, Nettalk does not warrant that the service will be without failure, delay, interruption, error, degradation of voice quality or loss of content, data or information.

Neither Nettalk nor its officers, Directors, Employees, Affiliates, or agents or any other Service Provider or vendor who furnishes services or products to customer in connection with this Agreement or the service will be liable for Unauthorised access to the Nettalk or Customer transmission facilities or premises equipment or Unauthorised access to, or alteration, theft or destruction of customers data, files, programs, procedures or information through accident, fraudulent means or devices or any other method, regardless of whether such damage occurs as a result of Nettalk or its service providers or vendors negligence. Statements or descriptions concerning the service or device, if any, by Nettalk or Nettalk Agents or installers are informational and are not given as a warranty of any kind.

- 8.3. No provision of this Agreement provides any person or entity not a party to this Agreement with any remedy, claim, liability, reimbursement or cause of action or creates any other third party beneficiary rights.

#### 9. Governing Law

- 9.1. The Agreement and the relationship between you and Nettalk shall be governed by the laws of the state of Queensland, Australia. The failure of Nettalk to exercise or enforce any right or provision of the Agreement shall not constitute a waiver of such right or provision. You agree that regardless of any statute law to the contrary, any claim or cause of action arising out of or related to use of the service or the Agreement must be filed within one (1) year after such claim or cause of action arose or be forever barred.
- 9.2. Nettalk reserves the right to refuse service and/or terminate a service without notice for any illegal use of service and not be held liable for any loss for any reason whatsoever.

#### 10. Entire Agreement

- 10.1. This Agreement and the rates for call charges and services found on the Nettalk website constitute the entire agreement between you and Nettalk and govern the use of the service, suspending any prior agreements between you and Nettalk and any and all prior or contemporaneous statements, understandings, writings, commitments or representations concerning its subject matter. No amendment to this agreement shall be binding upon Nettalk unless and until posted in accordance with Section 1.3 of this Agreement.
- 10.2. If any part of this Agreement is legally declared invalid or unenforceable, all other parts of this Agreement are still valid and enforceable. Such invalidity or non-enforceability will not invalidate or render unenforceable any other portion of this Agreement.

#### 11. Termination of Account

- 11.1. You can terminate the service at any time by email, post or facsimile. Upon receipt of your written intention to terminate we will within seven (7) days close your account and refund any outstanding call credits to your nominated account or by Company cheque to an address nominated by you. Customers will be billed for any outstanding service or call charges outstanding up until time of cancellation.
- 11.2. If you have nominated to participate in Nettalk Loyalty and terminate your service within (12) months of activation, waived fees will immediately become payable