

## CONDITIONS OF SERVICE - ADAMANYG SERVICES

---

### 1. ABOUT

These terms are product specific terms which apply to the AdamAnyG Services.

### 2. APPLICATION

We will supply the AdamAnyG Services to you pursuant to the terms and conditions set out in these Conditions of Service which form part of and must be read subject to our Standard Form of Agreement found at [www.adam.com.au/legal](http://www.adam.com.au/legal). To the extent of any inconsistency between these Conditions of Service and the Standard Form of Agreement, these Conditions of Service will prevail.

### 3. DEFINITIONS

Capitalised terms have the meaning set out in our Standard Form of Agreement, and in these Conditions of Service, the following definitions apply, unless the context requires otherwise.

<b>AdamAnyG Network</b>	means the infrastructure used and maintained by us or our Wholesale Providers to provide you with your Service. The AdamAnyG Network does not include the computer networks that make up the Internet.
<b>AdamAnyG Service</b>	means the Internet connectivity service which is provided to you by us on the terms and conditions set out in our Agreement in relation to such service.
<b>AdamAnyG Service Plan</b>	means the AdamAnyG Service Plan selected by you in your Application.
<b>Agreement or our Agreement</b>	means the agreement between you and us for the AdamAnyG Services, comprising the terms stated in your Application Form, the Standard Form of Agreement, these Conditions of Service and Schedule of Fees and Charges.
<b>Captive Portal</b>	means the limitation of your Service so that only the Adam Internet Members Services Area can be accessed.
<b>Content</b>	means all forms of information, including, but not limited to, text, pictures, animations, video, sound recordings, software, separately or combined, sent and received across a network.
<b>End Users</b>	means any person using the AdamAnyG Service or related services through our Wholesale Providers.

<b>GSM</b>	means Global System for Mobile.
<b>Minimum Term</b>	means the minimum term (if any) specified in your AdamAnyG Service Plan.
<b>Peer to Peer Application</b>	means software that runs on a personal computer used for the purpose of downloading or uploading data between two or more personal computers.
<b>SIM Card</b>	means a card of the type provided by Adam Internet to you which contains information associated with your AdamAnyG Service Plan and which when activated and used with hardware provided by Adam Internet will enable access to the AdamAnyG Network.
<b>we, our or us</b>	means Adam Internet Pty Ltd.
<b>Wholesale Provider</b>	means any third party provider that is involved in the provision of your Service.
<b>you or your</b>	means the current account holder for the Services.
<b>Zero Tolling</b>	means no data usage on a service.

#### **4. COMMENCEMENT OF ADAMANYG SERVICE**

Our Agreement commences when we accept your Application and continues until terminated in accordance with our Agreement (**'Term'**).

#### **5. ADAMANYG SERVICE CONDITIONS**

- 5.1 During the Term, and provided that you are not in default of your obligations set out in our Agreement, we will provide to you the AdamAnyG Service in accordance with the AdamAnyG Service Plan you have selected in your application.
- 5.2 The connection, configuration and installation of any customer equipment or other items required for the AdamAnyG Service which are not a part of our Agreement will be at your sole responsibility and cost.

## 6. LIMITATIONS OF ADAMANYG SERVICE

### 6.1 You acknowledge that:

- (a) the AdamAnyG Service availability depends on and is subject to the configuration and limitations (including network capacity and coverage constraints) of the AdamAnyG Network;
- (b) the AdamAnyG Service is a consumer grade service and applications that are sensitive to latency, jitter or packet loss, such as, but not limited to, voice or real time video streaming, online gaming or applications that require high volume continuous file transfers may be adversely affected. AdamAnyG is a mobile Internet access product and not intended to be used as a fixed broadband replacement;
- (c) the speed and performance of the AdamAnyG Service is dependent on the number of End Users utilising the AdamAnyG Network at the same time;
- (d) the AdamAnyG Service is not to be used to support Peer to Peer Application or continuous file transfer;
- (e) without excluding the warranties implied by law into this Agreement, we do not warrant, and have not represented, that the AdamAnyG Service is or will be free of errors, defects or interruptions, nor that it will be available at all times. You acknowledge that there will be variations in network capacity and quality of service and you acknowledge that regardless of any faults or interruptions, you are responsible to maintain your monthly commitments;
- (f) you will direct all services and performance enquiries related to the service to Adam Internet and not any of our Wholesale Providers. Calls regarding the AdamAnyG service made to a Wholesale Provider will incur a penalty charge as set out in our Schedule of Fees and Charges. Furthermore, prior to lodging a fault, Adam Internet will conduct an AdamAnyG fault checklist that you must confirm with us at lodgement. Should a fault be found to be related to this checklist (i.e. customer error) a fault lodgement fee as set out in our Schedule of Fees and Charges plus wholesale charges will apply;
- (g) Whilst we will act in your best interest to provide an effective service, no guarantee is offered in respect of the time to detect faults, or to repair or restore an AdamAnyG Service which develops a fault. However, in certain circumstances you will be entitled to claim a pro-rata refund of Fees applicable to the period of an Interruption, in accordance with clause 15.3 of our Standard Form of Agreement;
- (h) the AdamAnyG Service may rely upon the operation of third party networks operated by third party carriers and third party services provided by other carriage service providers. We are unable to guarantee the operation of or the use of the AdamAnyG Service through third party supplier networks or other third party carriers and carriage service providers. Any failure or withdrawal of service of the AdamAnyG Service caused by a third party network or third party service is beyond our control, and we will not be responsible for such failures or withdrawals of service or be liable to you, for any such failures or withdrawals of service, other than as described in clause 15 of our Standard Form of Agreement;;

- (i) subject to your rights under clause 3.4 of our Standard Form of Agreement, we may:
  - (i) limit the performance of the AdamAnyG Service from time to time;
  - (ii) cease or interrupt the service to troubleshoot or conduct maintenance or upgrade the network or infrastructure through which the AdamAnyG Service is provided; and
  - (iii) update the AdamAnyG Network which may require you to update your Customer Equipment at your cost to continue to receive your AdamAnyG Service.

## **7. USE OF ADAMANYG SERVICES**

7.1 The AdamAnyG Service allows you to access the Internet and related data services from a personal computer or laptop computer via a wireless connection in areas covered by the Wholesale Providers 3G/HSDA or GSM Networks.

7.2 You expressly acknowledge and agree that:

- (a) your use of the AdamAnyG Services is subject to our Acceptable Use Policy;
- (b) both upload and download of data from and to your AdamAnyG Service will be counted towards your data allowance;
- (c) upon reaching your allocated data allowance in accordance with your AdamAnyG Service Plan, your connection will be held in a Captive Portal. This Captive Portal will allow you to accept excess charges or upgrade your AdamAnyG Service Plan if available;
- (d) any data supplied over and above the monthly data allowance in your AdamAnyG Service Plan will be charged in accordance with the excess fees set out in our Schedule of Fees and Charges;
- (e) you must adopt appropriate measures to ensure the security of your account information, password and your data and advise us in a timely manner if you have reason to suspect that the AdamAnyG Service is being used contrary to our Agreement;
- (f) any stated transmission speeds for AdamAnyG Services refer to the maximum theoretical throughput speed under ideal conditions;
- (g) tools provided to you by us to check for AdamAnyG capability, monitor your usage or any other services that we may choose to provide you from time to time are a guide only and must not be relied upon as a commitment or authoritative in nature;
- (h) you acknowledge that should you default on your scheduled monthly payment, a late fee as detailed in our Schedule of Fees and Charges will be charged and if we are unable to secure a suitable payment, your services may be restricted or terminated;

- (i) should your account remain unpaid 7 days after we give you a notice demanding payment of overdue Fees your service will be suspended;
- (j) Debt Recovery services will be used to recover any outstanding amount which will incur a fee as detailed in our Schedule of Fees and Charges. You acknowledge that you will be liable for any financial institution charges and collection fees, including but not limited to solicitors costs or fees associated with any collection agent appointed by Adam Internet.
- (k) any SIM card provided to you by us for use with your AdamAnyG Service Plan remains the property of Adam Internet. You must notify us immediately if it is lost or damaged and return it to us if requested to do so; and
- (l) a SIM replacement fee as set out in our Schedule of Fees and Charges will be applicable if you have lost or damaged your SIM card;

## **8. NETWORK ACCESS**

8.1 Adam Internet may suspend, deactivate or refuse to activate or re-activate any AdamAnyG Service:

- (a) to allow Adam Internet to reduce incidents of fraud;
- (b) to perform system and network management and maintenance determined by Adam Internet to be necessary from time to time;
- (c) where Adam Internet reasonably believes that the requested activation, deactivation or re-activation is not in accordance with the authorisation of an End User;
- (d) to reduce or prevent interference within the AdamAnyG Network;
- (e) for reasons related to credit and debt management from time to time;
- (f) where you fail to comply with the Acceptable Use Policy.

8.2 Adam Internet provides the ability to change your data allowance up or down within your first billing cycle by paying the monthly plan difference.

8.3 For an administration fee as detailed in our Schedule of Fees and Charges you may retain your current contract period but move to another AdamAnyG Service Plan. If in contract, you can change to a plan that is greater in monetary spend for free. If out of contract you can change up or down in monetary spend free of charge.

8.4 If at any time Adam Internet is unable to continue providing your AdamAnyG Service, our Agreement may be continued with our Wholesale Provider (at the Wholesale Provider's sole discretion) by providing you with 42 days notice. At this time, Adam Internet will provide your information to our Wholesale Provider for the purpose of managing our arrangement and invoicing you directly.

## **9. TERMINATION OF SERVICE**

- 9.1 In order to terminate your service you must provide notice of this intent before the next billing cycle or 7 business days, whichever is greater. You will be responsible for all charges during this notice period. If you are in contract you may be required to pay an exit fee as detailed in our Schedule of Fees and Charges
- 9.2 Adam Internet reserves the right to suspend or terminate the AdamAnyG Service if:
- (a) you send or receive Content on the AdamAnyG Network other than for your own personal or business use;
  - (b) you resell, on-sell or wholesale any service (including transit or aggregate traffic) on the AdamAnyG Network;
  - (c) you use the AdamAnyG Service (including any AdamAnyG SIM card) in connection with a device that switches or reroutes calls to or from the AdamAnyG Network or the network of any supplier; or
  - (d) it has been Zero Tolling for 3 consecutive months.

## **10. FEES**

We will charge you for AdamAnyG Services at the rates for the AdamAnyG Service Plan as set out in our Schedule of Fees and Charges.