

## Fusion Broadband Acceptable Use Policy (including Fair Use Policy)

### General Introduction

Fusion Broadband Pty Ltd ("Fusion Broadband") and its Resellers, Sub-Resellers, Partners, Affiliates and End-User ("Customer(s)") provide a variety of information technology related products and services, including such service as internet access, content delivery services, various electronic mail (email) packages and services, world wide web hosting arrangements, voice and other data communications, network and network management, internet-related and telecommunications services (each, a "Service" and collectively the "Services").

This document defines the Acceptable Use Policy ("AUP") of the Services with a view of ensuring the integrity, security, reliability and privacy of the Fusion Broadband and its Resellers', Sub-Resellers', Partners' and Affiliates' software, systems, products, services, server hosting facilities and data contained therein (collectively, the "Fusion Broadband Network" or "Network").

Customers are solely responsible for the content and messages that they post, distribute or otherwise make available using the Fusion Broadband Network and Services.

### Prohibited Activities

For the benefit of all Fusion Broadband Resellers, Sub-Resellers, Affiliates, Partners and Customers, as a condition of the Services, Fusion Broadband prohibits the following activities:

**1. Unlawful or Improper Use of the Services.**

You may not use the Services in a manner prohibited by any applicable laws or regulations. Without limiting the foregoing, the Services may not be used for any unlawful or abusive purpose, in any way that could damage, disable, overburden, or impair any Fusion Broadband property, or in any way that directly or indirectly interferes with or disrupts the Fusion Broadband Network or adversely affects another's use or enjoyment of any Services, including other Fusion Broadband Resellers, Sub-Resellers, Affiliates, Partners or Customers. You may not use the Services in any manner such as to avoid incurring charges for or otherwise being required to pay for such usage. You may not circumvent or attempt to circumvent user authentication or security of any host, network, network element, or account (also known as "cracking" or "hacking"). This includes, but is not limited to, accessing data not intended for you, logging into a server or account that you are not expressly authorized to access, or probing the security of other networks. You may not interfere or attempt to interfere with any services to any user, host, or network ("denial of service attacks"). This includes, but is not limited to "flooding" of networks, deliberate attempts to overload a service, and attempts to "crash" a host. You may not use any kind of program/script/command, or send messages of any kind, designed to interfere with (or which does interfere with) any server or a user's session, by any means, locally or via the Internet.

**2. Intellectual Property Infringement.**

You may not use the Services to store, transmit or receive any material that infringes on any patent, trademark, trade secret, copyright, or other proprietary or intellectual right of any party, including, but not limited to, the unauthorized copying of copyrighted material, the digitization and distribution of movies, photographs from magazines, books, or other copyrighted sources, or the unauthorized transmittal of copyrighted software.

**3. Objectionable Material.**

You may not use the Services to store, post, transmit, or disseminate material or information that is unlawful, harmful, threatening, abusive, harassing, libellous or defamatory, hateful, obscene, indecent, or otherwise objectionable or which encourages or participates in conduct that would constitute a criminal offense, gives rise to a civil liability, or otherwise violates any local, provincial, national, or international law, order, rule, or regulation.

**4. Junk E-mail.**

You may not use the Services to transmit or facilitate any unsolicited or unauthorized advertising, telemarketing, promotional materials, "junk mail", unsolicited bulk e-mail, unsolicited duplicative e-mail, unsolicited commercial e-mail, fax broadcasting, or fax blasting (collectively, "Spam"). Fusion Broadband considers any unsolicited commercial mail to be Spam, regardless of the amount of mail sent, unless the recipient has specifically requested the information. An e-mail may be "unsolicited" for purposes of this AUP if (1) the recipients' e-mail addresses were not obtained through a personal or customer relationship between recipient and sender, (2) recipients did not affirmatively consent to receive communications from the sender, or (3) recipients have opted out of receiving communications from sender when given the opportunity to do so.

**5. Fraudulent Activity.**

You may not use the Services to make fraudulent offers to sell or buy products, items, or services or to advance any type of financial scam such as "pyramid schemes", "Ponzi schemes", or "chain

letters." You may not use techniques to hide or obscure the source of any e-mail or other communication.

**6. Impersonation.**

You may not use the Services to impersonate any person or entity, or falsely state or otherwise misrepresent your affiliation with any person or entity, or to create a false identity for the purpose of misleading others. Without limiting the foregoing, you may not use invalid or forged headers, invalid or non-existent domain names or other means of deceptive addressing.

**7. Software Viruses.**

You may not use the Services to upload files or transmit any material that contains viruses, worms, Trojan Horses, time bombs, cancelbots, corrupted files, or other code that manifests contaminating or destructive properties intentionally.

**8. Collecting Information.**

You may not use the Services to store or collect, or attempt to store or collect, personal information about third parties without their prior knowledge and consent.

**9. Use of Your Account by Others.**

You may not, through action or inaction, allow others to use the Services for illegal or improper activities or for any purpose or in any manner prohibited by this AUP. You may not permit your network, through action or inaction, to be configured in such a way that gives a third party the capability to use the Services in an illegal or improper manner or for any purpose or in any manner prohibited by this AUP.

VIOLATION OF ANY OF THESE PROHIBITED ACTIVITIES MAY RESULT IN ACTION TAKEN BY FUSION BROADBAND WHICH CAN INCLUDE, BUT IS NOT LIMITED TO, THE IMMEDIATE TERMINATION OR SUSPENSION OF THE SERVICES YOU RECEIVE FROM FUSION BROADBAND, ITS RESELLERS, SUB-RESELLERS OR AFFILIATES.

### **Security Precautions**

You are solely responsible for implementing sufficient procedures and checkpoints to satisfy your particular requirements for accuracy of data input and output, and for maintaining a means external to the Services for the reconstruction of any lost data.

### **Illegal and Fraudulent Activity**

You acknowledge and agree that Fusion Broadband may cooperate fully with investigations of possible illegal activity or violations of systems or network security. This may include local or remote events and will include cooperating with law enforcement authorities in the investigation of suspected criminal violations. Resellers, Sub-Resellers, Affiliates, Partners and Customers who violate systems or network security may incur criminal and/or civil liability. Fusion Broadband may immediately suspend or terminate Service if Fusion Broadband suspects abuse or fraudulent use of the Service, interference with our Network, or violation of this AUP, and may notify the appropriate authorities if it reasonably believes that such abuse or fraudulent use is in violation of applicable law. You must cooperate with Fusion Broadband in any fraud investigation and use any fraud prevention measures that Fusion Broadband prescribes. Your failure to provide reasonable cooperation may result in your liability for all fraudulent usage.

### **Privacy; Monitoring the Service, Policy Management**

Fusion Broadband does not monitor any data in its Network and is under no obligation to do so, but Fusion Broadband may do so from time to time at its discretion. Without limiting any other right of Fusion Broadband under this, Fusion Broadband may disclose any information regarding you or your use of the Services for any reason and at its sole discretion in order to satisfy applicable laws, regulations, orders, or governmental requests, or in order to operate and deliver the Services in an efficient manner, or to otherwise protect Fusion Broadband's property or legal interests and those of its Resellers, Sub-Resellers, Affiliates, Partners or Customers.

### **Responsibility for Content**

Fusion Broadband takes no responsibility for any material created or accessible on or through its network. Fusion Broadband is not obligated to monitor such material, but reserves the right to do so. Fusion Broadband will not exercise any editorial control over such material. In the event that Fusion Broadband becomes aware that any such material may violate this AUP and/or expose Fusion Broadband to civil or criminal liability, Fusion Broadband reserves the right to block access to such material and suspend or terminate any Reseller, Sub-Reseller, Affiliate or Customer creating, storing or disseminating such material. Fusion Broadband further reserves the right to cooperate with legal authorities and third parties in the investigation of alleged wrongdoing, including disclosing the identity of the Reseller, Sub-Reseller, Affiliate or Customer that Fusion Broadband deems responsible for the wrongdoing.

## Reporting Violations

Fusion Broadband requests that any person who becomes aware of a violation of this AUP report the information to Fusion Broadband at "sales@fusionbroadband.com.au". If available, please provide the IP used to commit the alleged violation and the date and time of the alleged violation. Fusion Broadband may take any appropriate action as it deems fit in its sole discretion, including, but not limited to, one or more of the following actions in response to a report: issue a written warning; suspend the Reseller, Sub-Reseller, Affiliate or Customer account or terminate the account and/or bill for administrative costs and/or reactivation charges and/or bring appropriate legal action to enjoin violations and/or to collect damages, if any, caused by violations; or take no action.

## Revisions; Reservation of Rights

Fusion Broadband reserves all rights including the right to revise, amend, or modify this AUP or any other Policy at any time, and any such revisions will be effective ten (10) days after posting on the Fusion Broadband website and providing written notification to Resellers upon each material revision, modification or amendment. Fusion Broadband Resellers, Sub-Resellers, Affiliates, Partners and Customers agree that continued use of the Services after the effective date of any such revision, amendment or modification will constitute acceptance thereof and shall thereafter be bound by the terms of this AUP, as revised, modified or amended.

## Fair Use Policy

This Fair Use Policy applies to all services supplied by Fusion Broadband.

This Fair Use Policy should be read in conjunction with any product/service specific and our General Terms and Conditions.

## Excessive Usage

This Excessive Use clause relates to any unmetered or unlimited data services offered by Fusion Broadband on any of their services to Partners and Customers.

In the event of Excessive Usage of any related service by the customer, Fusion Broadband may require the Customer:

1. To enter into a discussion with Fusion Broadband staff about their data usage with a view to determine an appropriate outcome suitable to both Fusion Broadband and the Customer; and/or
2. To reduce the use of the service, as in the case of unmetered data; and/or
3. Pay additional charges to recover any costs or losses incurred by such excessive usage. Such charges shall be based on Fusion Broadband's standard data overage rates of \$1/GB; and/or
4. Cancel the service.

Customer agrees that Fusion Broadband may republish/revise its Excessive Usage Policy at any time during the Term.

For the purposes of this Agreement "Excessive Usage" shall include, but is not limited to:

1. Total download data usage over 1TB per site per month.
2. Download data usage over consecutive months over and above 500GB per site; and/or
3. Any other metric that Fusion Broadband informs the Customer of in writing.