



Adam Internet Pty Ltd (ABN. 22 055 495 853)  
Postal Address: GPO. Box 121, Adelaide 5001  
Street Address: Level 7/117 King William Street, Adelaide 5000  
Phone (08) 8423 4000 Fax (08) 8231 0223  
Email: [info@adam.com.au](mailto:info@adam.com.au)

# Adam Internet

## General Terms and Conditions

1. Your registration of an Internet service account ("Account") with Adam Internet Pty Ltd trading as Adam Internet ("Adam Internet") and your access, connection and use of Adam Internet service ("Service") is subject to the following terms and conditions ("General Terms and Conditions"), Conditions of Service, Acceptable Use Policy and all applicable laws. By accessing and using the Service you represent that you have read, understood and accepted these Terms and agreed to be bound by them. If you do not agree to these Terms please do not use the Service or register an Account.
  2. When you request us to supply a service to you, which may be made using our standard application forms, we decide whether to accept your application and to supply the Service to you based on:
    - 2.1. the particular terms of the Service;
    - 2.2. your eligibility for that Service;
    - 2.3. its availability to you;
    - 2.4. you meeting our credit requirements; and
    - 2.5. your prior conduct or history in respect to any previous supply by us or our resellers of any goods or service to you, including your compliance with the Specific Conditions and General Terms and Conditions relevant to the supply of that Service.
  3. Adam Internet Pty Ltd reserves the right to change charging, terms and conditions without notice, in order to cover any price increases such as Telstra and other service providers. You agree to indemnify and hold Adam Internet Pty Ltd, its parents, subsidiaries, affiliates, officers and employees, harmless from any claim, demand, or damage, including reasonable solicitors fees, asserted by any third party due to or arising out of your use of or conduct on the Service.
  4. Adam Internet Pty Ltd provides an electronic Internet service, including information and links to content from third parties. Adam Internet Pty Ltd does not control in any respect any information, products or services offered by these third parties. The materials available through Adam Internet Pty Ltd and any third party are provided "as is" and "as available" and without warranties or conditions of any kind either expressed or implied.
  5. Certain laws imply terms into contracts for the supply of goods or services that cannot be excluded (eg. Statutory (sic) warranties that are implied under Division 2 Part V (of the Trade Practices Act are not excluded if goods are of a kind ordinarily acquired for personal domestic or household use). If those terms implied into our Terms and Conditions and we breach them, we accept liability for the breach. Otherwise, we exclude all conditions and warranties implied into our Terms and Conditions, and limit our liability for any non-excludable conditions and warranties to resupplying, repairing or replacing the relevant goods or services where the goods or services and not a kind ordinarily acquired for personal, domestic or household use or consumption and where it is fair and reasonable to do so.
  6. Adam Internet Pty Ltd does not represent or warrant that the Service materials will be uninterrupted or error-free, that defects will be corrected, or that any site or the server that makes it available, are free of viruses or other harmful components. Adam Internet Pty Ltd does not warrant or represent that the use or the results from the use of the materials available through the Service or from third parties will be correct, accurate, timely, reliable or otherwise.
  7. These General Terms and Conditions, Account Information, Conditions of Service and the Acceptable Use Policy constitute the entire agreement between Adam Internet and You and supersede all prior representations, agreements, statements and understandings, whether verbal or in writing.
  8. You are responsible for the use of Your Service. Adam Internet cannot and will not protect You against computer viruses and/or other possible security problems. Adam Internet cannot and will not control or censor the material that is available to You on the global Internet unless directed by an authorised authority. If You are confronted with material which You believe to be illegal, You can report it to the Australian Broadcasting Authority.
- ### 9. Rights of Adam Internet
- 9.1. Under the Terms and Conditions Adam Internet may:
    - 9.1.1. delete any transitory data stored on Adam Internet servers for a duration exceeding 90 days;
    - 9.1.2. Reject any email (including attachments), which exceeds 5mb (including encapsulation) and is sent to You via any of Adam Internet mail servers.
    - 9.1.3. where it is deemed necessary in order to comply with Adam Internet's legal obligations, Adam Internet may monitor data accessed or transmitted by You while using the Service;
    - 9.1.4. take any steps deemed necessary to comply with Adam Internet's legal obligations under the relevant



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State or Federal legislation, industry code of practice or under direction from a relevant regulatory authority or court order;

- 9.1.5. increase the amount You are charged for Your Internet Service by providing You with 21 days notice;
- 9.1.6. vary the conditions of the Service by providing 21 days notice via <http://newsletter.adam.com.au>;
- 9.1.7. remove a Service by providing You with 42 days notice.

## 10. Force Majeure

10.1. Adam Internet is not liable for:

- 10.1.1. any delay in installing any Service;
- 10.1.2. any delay in correcting any fault in any Service;
- 10.1.3. failure or incorrect operation of any Service; or
- 10.1.4. any other delay or default in performance under this Agreement, if it is caused by any event which is reasonably beyond our control, including but not limited to compliance with Adam Internet's Legal Obligations, war, accident, industrial action, embargo, delay or failure or default by any other supplier.

## 11. Unauthorised Commercial Use

11.1. The Service is provided to individuals only. Any unauthorised commercial use of the Service, in particular the resale of its services, is expressly prohibited. Access is granted on the basis that it be for the sole use of the applicant (the Applicant can be a business entity). Any other individual, organisation, or business may not use the account without prior agreement. Accounts are granted on a single user (entity) basis and are not transferable or refundable. Adam Internet Pty Ltd reserves the right to grant a refund. A refund will be calculated on the following basis: A charge of \$5-00 per hour used, or part thereof (including any free hours in any offer made by Adam Internet Pty Ltd) plus a minimum \$60-00 administrative charge to cover initialisation and setup of the account.

## 12. Maintenance of a Delivery System

12.1. You agree to provide and maintain the telephone line, modem, computer, hardware, software and all other equipment required to access Adam Internet. To prevent abuse of the Service, you must ensure that your telephone line is equipped with Calling Line Identification ('CLI') and that CLI is not barred at any time when using the Service. In accordance with the telecommunications act we agree to keep all information absolutely confidential and not

disclose to any third party the details of your phone number unless required to do so by law.

12.2. In order to provide the Service to You, we may need access to the Premises. You agree to provide us safe and prompt access to the Premises:

- 12.2.1. to install any equipment for a Service you have requested.
- 12.2.2. to inspect, test, maintain, modify, repair or replace any equipment
- 12.2.3. to recover Our equipment after the service is cancelled.

## 12.3. Reporting A Fault

12.3.1. Before reporting a fault to us, You must take reasonable steps to ensure that the fault is not a fault in any of Your Equipment. We are not responsible for rectifying any fault in the Service where the fault arises in or is caused by another Supplier's Network or by Your equipment.

12.3.2. If You report a fault in the Service and ask us to register a fault to repair it, we will run through a checklist of common faults. By registering a fault You acknowledge that you have physically carried out the actions as outlined in this verbal checklist. If we determine that the Service is not faulty, the fault is associated with Your Equipment, or a fault was found because an item in the checklist was not carried out effectively, we may charge you an incorrect call-out fee of \$25 plus any contractor fees applicable.

## 13. Authorised Users

13.1. The applicant is solely responsible for all authorised users of the account, whether such usage is a result of deliberate and/or negligent action on the applicant's part. The applicant is over the age of eighteen (18) years and agrees to pay all fees and charges incurred through the use of the account. Adam Internet Pty Ltd takes reasonable care to ensure the security of the system, we accept no responsibility for loss of data.

13.2. Should You continue to make use of the Service beyond the expiration of the Service Period, Adam Internet shall be entitled to levy on a pro-rata basis any applicable Charges relating to Your continued use of the Service.

13.3. If you choose not to provide all or part of the Personal Information we request, we may not be able to provide you with the Services requested by you, or we may refuse to provide, or limit the provision to you of, any Service or personal or commercial credit requested by you.



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13.4. By providing Personal Information to us and acquiring the Service, you acknowledge and consent to the collection, use and disclosure of your Personal Information in accordance with our privacy policy. A copy of our privacy policy is available at our offices, on our website or on your Application form.

#### 14. Billing

- 14.1. You must pay all Charges for the Service in accordance with your Account Agreement, which may be varied from time to time. The set-up fee is processed upon the Commencement Date and is non-refundable unless we are unable to provision the service to you. All portions of Usage are charged for and unused allocations are not transferable or refundable. Adam Internet reserves the right to re-issue an invoice if any error is subsequently discovered. Your invoice will be calculated by reference to data recorded or logged by Adam Internet.
- 14.2. Records held by Adam Internet will be conclusive evidence of the Usage of the Service and the Charges payable by You.
- 14.3. Payment must be made in full by the manner prescribed for the Service. You may not make any allowance by way of set-off or withholding. The applicant agrees to maintain their account in good order and meet the payment conditions applicable to their account(s).
- 14.4. Where an account becomes in arrears Adam Internet will initiate actions to secure payment of delinquent accounts. A late fee will apply to accounts that are not paid by or on the renewal date. This fee is \$11.00 per default. If we are unable to secure a suitable payment, your service will be restricted without further notice.
- 14.5. Interest is payable on any amount due and payable which is outstanding under this agreement at an annual rate equal to 3% above the prime rate of interest on overdrafts charged by the Commonwealth Bank of Australia.
- 14.6. Debt recovery services will be used to recover any amount outstanding beyond this initial action plus an administration fee of \$125. Please note that you will be liable for any financial institution charges and collection fees including but not limited to solicitors costs, court and collection agent fees as appointed by Adam Internet.
- 14.7. If You supplied credit card details, You authorise Adam Internet Pty Ltd to debit the credit card for all valid charges when they become due including Excess Traffic or time.
- 14.8. Your Service as specified in your account will continue automatically beyond your contract period. Should you not require this service after your contract period you must contact us and terminate your account as specified in your

#### Conditions of Service.

- 14.9. Adam Internet may from time to time without notice suspend any Service or disconnect or deny You access to any Service:
- 14.9.1. during any technical failure, modification or maintenance involved in the Service provided that Adam Internet will use reasonable endeavours to procure the resumption of the Services as reasonably practicable
- 14.9.2. if You fail to comply with the Terms and Conditions (including failure to pay charges due) until the breach (if capable of remedy) is remedied; or
- 14.9.3. if You do, or allows to be done, anything which in Adam Internet opinion may have the affect of jeopardising the operation of any Service.
- 14.9.4. the ACCC issues us with a Competition Notice in respect to the Service or we anticipate that it may do so.
- 14.9.5. you become bankrupt or Insolvent or appear likely to do so and we reasonably believe that it is unlikely that we will receive or retain amounts due and payable by you to us.
- 14.10. Notwithstanding any suspension of any Service under this clause You shall remain liable for all charges due throughout the period of suspension.
- 14.11. Generally, to terminate your account, you must provide written notice of this intent before your next billing cycle or 7 business days, whichever is greater and have completed your contract term. Some accounts, specifically those Accounts that are connected to the AdamDirect Network will attract a Network Access Fee of \$90 to return their service to the normal telephone service. This payment can be made at the commencement of your service or deferred to the time of disconnection from the AdamDirect Network. During the intervening period from your notice to terminate your account and your actual disconnection date, you will be responsible for all charges during this notice period. Any services provided by Adam Internet cannot be pro-rated nor are refundable.
- 14.12. If you are permitted to upgrade or change an account, that upgrade or change will occur on the next billing cycle. An option does exist for an immediate upgrade (subject to technical feasibility) but in doing so, You acknowledge that any remaining time or data for the remaining period is forfeited.
- 14.13. Data is calculated one way, either weekly or monthly dependent on your account type. That is your data incoming and outgoing are treated as separate entities



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and we will calculate based on whichever is greater. Upon reaching any of your allocated Data Allowances, you will be charge in accordance with your account or shaped to 64K. This shaping will occur across your entire service including free data. In the case of webhosting a ratio of uploads to downloads may apply to the account. In which case the account will be charged the associated cost after re-alignment to the agreed ratio. The pre-agreed ratio is 1:4 (incoming:outgoing) unless otherwise specified.

- 14.14. Adam Internet does not refund unwanted Purchased Equipment. If You require a different model, Adam Internet allows 7 business days, from the date You receive the Purchased Equipment, to return to Adam Internet at Your own cost, any unopened Purchased Equipment from Adam Internet. Credit to Your account will be less a 15% restock fee. No credit will be applicable on any Purchased Equipment returned opened or after the 7 business day period.
- 14.15. Due to the nature of the Services Adam Internet provides, any Purchased Equipment warranty is provided via a Return to Manufacturer basis. No replacement items are held by Adam Internet or loan units. Regardless of the condition of your Purchased Equipment, You are still responsible to maintain a delivery system for our services and will continue to be billed on this basis.
- 14.16. Adam Internet maintains an ADSL Modem/Router rental capability at a cost of \$10 per week or part thereof. This can be utilised to cover a repair period or when an ADSL Modem/Router is required for short periods.

## 15. Third Parties

- 15.1. Adam Internet is not liable for any call charges incurred by You dialing into our service. It is Your sole responsibility to ensure that the Adam Internet's number You are dialing into is a local call only or that you are fully aware of its costs. You are responsible for any third party carrier costs incurred for call connection fees from Your modem to Your Adam Internet dialup number.

## 16. No Assignment

- 16.1. Adam Internet may on 30 days' written notice to You, assign all its rights and obligations under this Agreement. You may not assign Your rights under this Agreement or otherwise transfer the benefit of this Agreement or a right or remedy under it, without the prior written consent of Adam Internet.

## 17. Notice

- 17.1. Any notice provided under this Agreement must be provided in writing. For the purposes of this clause, You agree that an e-mail constitutes notice in writing and that

an email will be deemed to have been received by You where Adam Internet sends an email to Your Adam Internet email address or nominated email address, and Adam Internet does not receive a delivery failure report for that email.

## 18. Technical

- 18.1. Adam Internet Pty Ltd provides free telephone support for Microsoft and Netscape Internet browsers; this service is for registered account users between 9am-10pm Monday - Friday, 10am-4pm Saturday & 10am-10pm Sunday. Due to the services being free, regretfully, it does not extend to any other software, returning phone calls or calls to mobiles.
- 18.2. Adam Internet free support is defined as three hours support for the Service per year. Support beyond this amount may be provided by Adam Internet at Adam Internet's sole discretion and as a fee for service.
- 18.3. Support is limited to non-implementation specific technical information relating to the use of the Services. Adam Internet is not responsible for, and will not provide support for, any fault caused by:
  - 18.3.1. Your equipment;
  - 18.3.2. the interaction of Software with other software packages used by You;
  - 18.3.3. the inability to gain wireless connectivity from Your wireless Access Point/Router to Your computer
  - 18.3.4. other services as provided by another carrier or third party other than Adam Internet.
- 18.4. Advice from Adam Internet's staff is given in good faith and with the best of intention, however Adam Internet does not represent that its staff are experts in the operation of Your computer hardware or software. You undertake to act on any advice given by any Adam Internet's staff member at Your own risk.
- 18.5. Adam Internet makes reasonable efforts to ensure that the information on the Adam Internet website is correct and up to date. However, Adam Internet does not warrant the accuracy of that material.
- 18.6. All Personal accounts are entitled to 4 free Email accounts, and 10,000,000 bytes (10Mb) of disk storage in total. These accounts are only set up free of charge at the time of joining. Any changes additions and alterations made to your account at a later date incur a \$22-00 modification charge. Adam Internet Pty Ltd will immediately terminate any account that it believes, in its sole discretion, is transmitting or is otherwise connected with any spam or other unsolicited bulk email. In addition,



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because damages are often difficult to quantify, you agree to pay Adam Internet Pty Ltd liquidated damages from or otherwise connected with your Adam account. This will be charged at the rate of \$5 for each piece of spam or unsolicited bulk email transmitted, or 39 cents per megabyte, or actual damages to Adam Internet Pty Ltd, whichever is greater.

- 18.7. All personal accounts can use a Web Space under [www.adam.com.au/username](http://www.adam.com.au/username) this forms part to a personal account's total disk storage capacity. This area is provided at Your risk and Adam Internet does not provide support, additional features or guarantee its continuance for any period of time. Furthermore, Adam Internet does not warrant any data stored in this area. This does not extend to businesses and cottage industries. Organisations and businesses requiring virtual shop fronts, web pages and multiple users access to the system should ring the office for further details.
- 18.8. Pre-paid bonus-blocks effectively have no expiry date. Accounts left unused for twelve weeks (84 days) will incur a 10 hour per month administrative charge backdated to the last connection made to Adam. Accounts using less than one hour in any single week (Monday to Sunday) will incur a one hour administrative charge in addition to their usage. This charge does not apply to nil usage or additional e-mail accounts. To avoid rounding errors a minimum call charge of five minutes will apply to all accounts
- 18.9. Adam Internet may provide You with an exclusive, non-transferable license to use the non private IP addresses provided by Adam Internet in Your equipment for the sole purpose of enabling those devices to access the Service. This provision terminates immediately if You:
  - 18.9.1. terminate the Service with Adam Internet; or
  - 18.9.2. breach the Terms and Conditions.
- 18.10. Upon termination of this provision, You must immediately cease using and remove the supplied IP addresses from all software and hardware devices that contain the supplied IP addresses.
- 18.11. All IP addresses are dynamically assigned unless a Static IP option is provided in your Account Information. Where dynamic IP addresses are supplied for a Service, those IP addresses may be subject to change without notice and at irregular intervals.

## 19. Acceptable Use Provisions (AUP)

- 19.1. Services with no fixed Data cap i.e Shaped Services are NOT designed to provide sustained, high-volume access as it will compromise the service for other users. As such,

continuous transfer of data well in excess of your fair share for several days will be considered excessive use. If a user is found making excessive use of the Service the user will find the service restricted and if it continues will have the service suspended or cancelled. Furthermore, if you use devices or knowledge to exceed our account restrictions pertaining to your account, that data or service in excess of your allocated amount may be subject to cost recovery. The following violates Adam Internet's AUP:

- 19.1.1. **Illegal use.** Use of Adam Internet's Services to transmit any material (by email, uploading, posting, or otherwise) that, intentionally or unintentionally, violates any applicable local, state, national or international law, or any rules or regulations promulgated hereunder.
- 19.1.2. **Fraudulent activity.** Using 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," and "chain letters."
- 19.1.3. **Forgery or Impersonation.** Adding, removing or modifying identifying network header information in an effort to deceive or mislead is prohibited. Attempting to impersonate any person by using forged headers or other identifying information is prohibited. The use of anonymous remailers or nicknames does not constitute impersonation. Using deliberately misleading headers ("munging" headers) in news postings in order to avoid spam email address collectors is allowed.
- 19.1.4. **Unauthorized Access.** Using the Services to access, or to attempt to access, the accounts of others, or to penetrate, or attempt to penetrate, security measures of Adam Internet's or another entity's computer software or hardware, electronic communications system, or telecommunications system, whether or not the intrusion results in the corruption or loss of data.
- 19.1.5. **Copyright or Trademark Infringement.** Using the Services to transmit any material (by email, uploading, posting, or otherwise) that infringes any copyright, trademark, patent, trade secret, or other proprietary rights of any third party, including, but not limited to, the unauthorized copying of copyrighted material, the digitization and distribution of photographs from magazines, books, or other copyrighted sources, and the unauthorized transmittal of copyrighted software.
- 19.1.6. **Network Disruptions and Unfriendly Activity.** Using the Services for any activity which adversely



affects the ability of other people or systems to use Adam Internet's Services or the Internet. This includes "denial of service" (DoS) attacks against another network host or individual user. Interference with or disruption of other network users, network services or network equipment is prohibited. It is the Users responsibility to ensure that their network is configured in a secure manner. A User may not, through action or inaction, allow others to use their network for illegal or inappropriate actions. A User may not permit their network, through action or inaction, to be configured in such a way that gives a third party the capability to use their network in an illegal or inappropriate manner.

19.1.7. **Service Aggregation.** Adam Internet services are provisioned on the basis of customer endpoints. That endpoint being defined as a physical location (address) not a phone number. You may not aggregate, re-distribute or multi-link a like service provided by Adam Internet. A "like service" being two services that are the same technology ie. AdamDirect. Where this is detected, in Adam Internet's sole opinion, the additional service shall be terminated and data transiting that link shall be charged at a rate of excess data, that rate being \$0.08 per megabyte.

19.2. Adam Internet Pty Ltd reserves the right to act in an appropriate manner where there are grounds for believing that malicious or unacceptable use of the system or our network is occurring. Any member found to be using the system for either abusive or derogatory reasons may lose access to system, any uncollected Email and forfeit all prepaid access time.

## 20. Revision of the Terms and Conditions and AUP

20.1. Adam Internet Pty Ltd reserves the right to revise, amend, or modify the AUP, our Internet Service Agreements and our other policies and agreements at any time and in any manner. Notice of any revision, amendment, or modification will be posted on the Internet at [www.adam.com.au/terms](http://www.adam.com.au/terms)

## 21. Execution

21.1. The Terms and Conditions of Service are deemed to have been executed and agreed upon Your use of the Service.