

Hypha Australia Terms of Service

Hypha (Australia) – Terms of Service

1. This Agreement

1.1 Background

- (a) The Hypha group comprises Hypha Limited and its subsidiaries and related entities involved in the provision of Services and Equipment. The contracting entity under this Agreement is the Hypha entity identified in the applicable Quote, Proposal, Order Form, Statement of Work, Invoice or other document issued to the Customer.
- (b) This Agreement sets out the terms on which Hypha provides, and the Customer acquires and uses, the Services and Equipment.
- (c) Certain Services and Equipment are supplied in connection with the Starlink Network and may be subject to additional requirements imposed by Starlink.
- (d) By requesting, purchasing, receiving or using any Services or Equipment, the Customer agrees to be bound by this Agreement and any documents incorporated into it.

1.2 Term

- (a) This Agreement commences on the earlier of the date the Customer communicates its acceptance of this Agreement, requests Services and/or Equipment, or receives Services and/or Equipment.
- (b) This Agreement continues indefinitely until terminated pursuant to clause 14.

2. Definitions and Interpretation

2.1 Definitions

Unless the terms and conditions of the Agreement explicitly state otherwise, expressions used in the Agreement have the following meanings:

- (a) **Agreement** means this document, including any schedules or annexures.
- (b) **Business Day** means any day excluding Saturday, Sunday or public holiday in Brisbane in the State of Queensland, Australia.
- (c) **Carriage Services** means the carriage services provided by Hypha to the Customer by way of satellite gateway or other connection facilitation device, with each connection representing an individual Service.
- (d) **Claim** means a claim, demand, remedy, suit, injury, damage, loss, cost, liability, action, proceeding, right of action, claim for compensation or reimbursement or liability incurred by or to be made or recovered by or against a person, however arising and whether: ascertained or unascertained; immediate, future or contingent; and subject of a dispute, litigation, arbitration, mediation, conciliation or administrative proceedings.
- (e) **Collateral** means PPSR, Purchase Money Security Interest, Security Agreement, Security Interest have the meaning given in the PPS Act.
- (f) **Customer Data** means data, information, materials and content supplied to Hypha by or on behalf of the Customer or uploaded, transmitted or stored by the Customer through the Services, excluding Operational Data.
- (g) **Drop-Outs** means any delay, ceasing, or loss of the Carriage Services.
- (h) **Equipment** means any goods supplied to the Customer by way of sale or hire pursuant to the terms of an Order, including but not limited to Starlink kits and accessories, Hypha One, Hypha Mesh and other Third-Party Products.
- (i) **Fee** means the amount payable to Hypha for Services and Equipment as described in an Order.
- (j) **GST Law** means the A New Tax System (Equipment and Services Tax) Act 1999 (Cth).
- (k) **Hire Period** has the meaning given in clause 8.2.
- (l) **Hypha** means the Hypha entity identified in the applicable Quote, Proposal, Order Form, Statement of Work, Invoice or other document issued to the Customer, being one of:
 - (i) Hypha Limited ACN 621 449 527
 - (ii) Hypha Link Pty Ltd ACN 663 659 069;
 - (iii) Hypha Solutions Pty Ltd ACN 605 008 053;
 - (iv) Hypha Starsat Pty Ltd ACN 676 204 470; or
 - (v) Hypha Networks Pty Ltd ACN 656 526 171,
 and includes that entity's officers, employees, contractors, agents and representatives.
 If there is any inconsistency as to the identity of the contracting entity, the Hypha entity identified in the applicable Quote, Proposal, Order Form, Statement of Work or Invoice will be the contracting party
- (m) **Insolvency Event** means in respect of a party:
 - (i) the appointment of a liquidator, provisional liquidator, administrator, a receiver or receiver and manager in respect of that party;
 - (ii) an application to a court or an order for the winding up or bankruptcy of the party;
 - (iii) enters into a compromise or arrangement with, or assignment for the benefit of, any of its creditors; or
 - (iv) the occurrence of anything analogous or having a substantially similar effect to any of the preceding events.
- (n) **Installation Guide** means the installation guide available in the Starlink Customer Portal or other guide provided to the Customer by Hypha.
- (o) **Intellectual Property Right** means all present and future rights conferred by statute, common law or equity in or in relation to business names, circuit layouts, computer software, confidential information, copyright, designs, domain names, formulas, inventions, knowhow, patents, recipes, trade marks, and other results of intellectual activity in the industrial, commercial, scientific, literary or artistic field, the benefit of any application to register such a right and the benefit of any renewal or extension of such a right.
- (p) **Late Fee** means the late fee specified in an Order for hire of Equipment, or if none is specified, then \$100 per day, pro rata per hour, that Equipment is not returned to Hypha without consent.
- (q) **Monthly Usage** means the amount of data and/or credit allocated to the Customer for use by the Customer during each month of the Service Plan.
- (r) **Network** means the satellite-based network owned and operated by Starlink.

- (s) **Order** means a contract between Hypha and the Customer for the sale or hire of Equipment and/or provision of Services, incorporating a Quote and this Agreement.
- (t) **Payment Terms** means the terms and conditions in relation to the amount payable in respect of an Order provided by Hypha to the Customer, including all costs, charges and expenses reasonably and properly incurred by Hypha.
- (u) **Personal Information** has the meaning given to that term in the *Privacy Act 1988* (Cth).
- (v) **Operational Data** means data generated, collected, recorded or derived by Hypha, the Equipment, the Services, the Network, any customer portal, software, application or management platform in connection with the provision, operation, monitoring, support, maintenance or improvement of the Services or Equipment, including:
 - (i) telemetry data;
 - (ii) diagnostic and fault information;
 - (iii) performance metrics;
 - (iv) utilisation and usage information;
 - (v) signal strength, latency, bandwidth and throughput data;
 - (vi) service quality and availability data;
 - (vii) device, equipment and sensor data;
 - (viii) location, movement and asset tracking information;
 - (ix) network analytics; and
 - (x) aggregated and de-identified data derived from any of the foregoing.

Operational Data does not include the substantive content of the Customer's communications, files, records or other business information merely because that information is transmitted, stored or processed using the Services.
- (w) **PPS Act** means the Personal Property Securities Act 2009 (Cth).
- (x) **Quote** means a statement of work or quotation which sets out the Equipment and/or Services to be supplied by Hypha to the Customer, prices, delivery dates and Payment Terms.
- (y) **Related Entity** has the meaning given in the *Corporations Act 2001* (Cth).
- (z) **Representative** includes an employee, agent, officer, director, auditor, advisor, researcher, partner, consultant, contractor, sub-contractor or Related Entity of that person or of a related body corporate of that person.
- (aa) **Schedules** means the documents and/or agreements included at the end of this Agreement and marked as a 'Schedule'.
- (bb) **Service Plan** means the rates, charges, monthly allowance, subscription period and other certain other terms and conditions of the plan for the Services and Equipment as set out in an Order.
- (aa) **Services** means any services to be supplied by Hypha to a Customer pursuant to an Order, including Carriage Services and/or Installation Services.

- (bb) **Starlink** means Space Exploration Technologies Corp, their Representatives or such other entity notified by Hypha to the Customer.
- (cc) **Starlink Terms** means the terms of service for the Starlink Services set out in Schedule 1 and the Starlink Priority Plan Service Level Agreement in Annexure 2, or as otherwise notified by Hypha to the Customer.
- (dd) **Subscription Period** means the period in which the Customer is receiving Carriage Services.
- (ee) **Term** means the period of time calculated in accordance with clause 1.
- (ff) **Third-Party Products** means any hardware or software products manufactured or supplied by a third-party vendor, including but not limited to manufacturer, licensors or suppliers. Hypha may sell Third-Party Products to Customers or Third-Party Products may be incorporated into Equipment.
- (gg) **Third-Party Vendor Terms and Conditions** means any terms and conditions applicable to Third-Party Products that are expressly identified in an Order, Quote, Proposal, Statement of Work or other document issued by Hypha to the Customer.

2.2 Interpretation

In this document unless the context indicates a contrary intention:

- (a) headings are for convenience only and do not affect interpretation;
- (b) if a party consists of more than one person, this Agreement binds them jointly and each of them severally;
- (c) an obligation, representation or warranty in favour of more than one person is for the benefit of them separately and jointly; and
- (d) "person" includes an individual, the estate of an individual, a corporation, an authority, an association or a joint venture (whether incorporated or unincorporated), a partnership and a trust;
- (e) a reference to a party includes that party's executors, administrators, successors and permitted assigns
- (f) a reference to a document (including this document) is to that document as varied, novated, ratified or replaced from time to time; a reference to a statute includes its delegated legislation and a reference to a statute or delegated legislation or a provision of either includes consolidations, amendments, re-enactments and replacements;
- (g) a word importing the singular includes the plural (and vice versa);
- (h) a word indicating a gender includes every other gender and no gender;
- (i) a reference to a party, clause, schedule, exhibit, attachment or annexure is a reference to a party, clause, schedule, exhibit, attachment or annexure to or of this document, and a reference to this document includes all schedules, exhibits, attachments and annexures to it;
- (j) if a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;

- (k) no doctrine or rule of construction of documents will apply to the disadvantage of a party, on the basis that the party put forward this Deed or any relevant part of it;
- (l) if an act must be done on a specified day which is not a Business Day, it must be done instead on the next Business Day; and
- (m) "includes" in any form is not a word of limitation.
- (n) References to Hypha include any Related Entity of Hypha only to the extent that the Related Entity owns Intellectual Property Rights or Operational Data, provides Services or Equipment, performs obligations on behalf of Hypha, or exercises rights under this Agreement.

3. Starlink and other Third-Party Products

3.1 Starlink Terms

- (a) The Customer acknowledges and agrees that the Starlink Terms will also apply where relevant to their use of the Services and Equipment.
- (b) If there is any inconsistency between the Starlink Terms and this Agreement, the Starlink Terms shall prevail to the extent of the inconsistency.
- (c) Notwithstanding any other term of this Agreement, the obligations of Hypha to the Customer shall not exceed the obligations of Starlink, where applicable, under the Starlink Terms.
- (d) The Customer acknowledges that the Customer may be entitled to service credits under Annexure 2 and that such service credits will be the Customer's sole and exclusive remedy for any failure by Hypha to meet the guaranteed service levels defined in Annexure 2.

3.2 Third-Party Products

- (a) This clause 3.2, 3.3 and 3.4 will apply if Hypha has agreed to provide the Customer with Third-Party Products under the terms of an Order.
- (b) The Customer acknowledges that certain Third-Party Products may be subject to Third-Party Vendor Terms and Conditions, including licensing, warranty and support terms, where those terms are identified by Hypha in an Order, Quote, Proposal, Statement of Work or other document provided to the Customer.
- (c) The Customer must comply with any applicable Third-Party Vendor Terms and Conditions notified by Hypha in relation to the relevant Third-Party Products.
- (d) The Customer acknowledges that Hypha is not responsible for the content, operation or enforcement of any Third-Party Vendor Terms and Conditions and the Customer is solely responsible for complying with them.
- (e) The Customer agrees to indemnify and hold harmless Hypha against any claims, damages, or expenses arising from the Customer's failure to comply with the terms and conditions of the third-party vendor.

3.3 Third Party Product – Intellectual Property

- (a) The Customer acknowledges that Third-Party Products, including software or firmware are the Intellectual Property of the third-party vendor.
- (b) The Customer agrees to respect the Intellectual

Property Rights of the third-party vendor and not to infringe, misappropriate, or misuse the Intellectual Property Rights in any way.

- (c) If required by the third-party vendor, the Customer agrees to execute and be bound by the terms of the third-party software warranty in relation to the third-party software.

3.4 Third-Party Vendor Terms and Conditions

- (a) The following Third-Party Vendor Terms and Conditions may apply to the relevant Third-Party Products supplied by Hypha and are incorporated into these terms to the extent applicable:
 - (i) Peplink. Refer to [Warranty, Support & Return Policies- Peplink](#) for General Terms and Conditions of Sale; Standard Hardware/ Software Warranty Policy; Peplink End User License Agreement;.
- (b) The Customer acknowledges that it has reviewed, or has been given the opportunity to review, the applicable Third-Party Vendor Terms and Conditions before using the relevant Third-Party Products
- (c) To the extent of any inconsistency between this Agreement and the applicable Third-Party Vendor Terms and Conditions, the Third-Party Vendor Terms and Conditions will prevail only in relation to the relevant Third-Party Product.

4. Quotation and Orders

4.1 Request

Hypha will, at its sole discretion, issue a Quote to the Customer following a request by the Customer for Equipment and/or Services.

4.2 Quotes

- (a) A Quote or other indication of a price issued by Hypha is an invitation to treat, not a contractual offer.
- (b) A Quote is valid for the period stated in the Quote, or if no such period is specified, then 14 days from the date of issue.
- (c) Hypha reserves the right to cancel or modify a Quote at any time before the Customer has accepted a Quote.
- (d) To the extent permitted by law, Hypha shall not be liable for any errors or omissions in a Quote.
- (e) Quotes may only be accepted by a Customer in their entirety.

4.3 Suitability

Hypha makes no representation or warranty as to the suitability of the Equipment and/or Services for the Customer's purposes. It is the Customer's responsibility to satisfy itself as to such suitability and the Customer must not accept a Quote unless it is so satisfied.

4.4 Orders

- (a) Accepted Quotes will be considered Orders following acceptance by the Customer in writing and payment of any required deposit.
- (b) Each Order incorporates the accepted Quote and this Agreement.
- (c) Any additional terms contained in any document (including hand amendments) provided by the Customer or Customer purchase order terms and conditions will not form part of the Order unless agreed by Hypha in

writing.

- (d) All drawings, descriptive matter and/or specification issued by Hypha and any descriptions or instructions contained on any website, in catalogues or brochures, or any other media are issued or published for the sole purpose of giving an approximate idea of the Equipment and/or Services described in them. Unless expressly included in a Quote, they will not form part of the Order.
- (e) An Order may only be cancelled in accordance with the terms of this Agreement.

5. Carriage Services

5.1 Provision of Carriage Services

This clause 5 applies if Hypha has agreed to provide the Customer with Carriage Services under the terms of an Order.

5.2 Hypha's Obligations

Subject to the Customer complying with its obligations set out in this Agreement, for the duration of the Subscription Period, Hypha will endeavor to:

- (a) provide and maintain the Carriage Services to the extent that it has control over the Carriage Services and Network; and
- (b) notify the Customer prior to any anticipated Drop-Outs.

5.3 Subscription Period

The Customer has requested and Hypha has agreed to provide the Carriage Services for the Subscription Period specified in the Order. Unless the Customer requests in writing to cancel a Carriage Service, that Carriage Service will automatically renew at the end of the Subscription Period for an additional Subscription Period.

5.4 The Network

- (a) The Customer acknowledges:
 - (i) that the Network is operated and owned by Starlink who is not controlled by Hypha;
 - (ii) from time to time, Starlink may vary, modify or change the Network at its discretion;
 - (iii) unless otherwise agreed upon in writing, Hypha is not responsible for any variations, modifications or changes to the Network by Starlink;
 - (iv) In the event that Starlink varies, modifies, or changes the Network, Hypha is under no obligation to contact the Customer, although if Hypha reasonably suspects it may affect the Carriage Services of the Customer, it will use best efforts to do so; and
 - (v) Hypha may vary the Carriage Services, without liability, if reasonably required for technical or operational reasons as long as the Service still complies with the Agreement.
- (b) Hypha has permission from Starlink to integrate the Services into the Network. However:
- (vi) Hypha does not hold any licenses for operating a carriage service under the Telecommunications Act 1997 (Cth) (Telecommunications Act), or any other similar or related legislation;
- (vii) Hypha will not be responsible or liable for Starlink's compliance with any warrants, notices or other surveillance instruments under Australian legislation,

including the Telecommunications Act, and the Customer releases and will hold Hypha entirely harmless for any Claim involving same; and

- (viii) Hypha takes no responsibility for Starlink's compliance with any laws, regulations or conditions in a jurisdiction in which the Carriage Services are provided to the Customer.

5.5 Limited Guarantee or Warranty

- (a) The Customer acknowledges:
 - (i) the provision of a Carriage Service is subject to bandwidth, network availability and capacity; and
 - (ii) that given the nature of satellite systems, the Network may experience some irregularities that cause temporary and/or unexpected interruptions.
- (b) Except as expressly provided in Annexure 2 – Priority Plan Service Level Agreement Terms, the Customer further acknowledges and agrees that due to the irregularities referred to in clause 5.5(a)(ii), Hypha does not guarantee or warrant that:
 - (i) a Carriage Service will be uninterrupted; or
 - (ii) there will be no congestion on the Network; and Hypha therefore does not guarantee or warrant the level or quality of a Carriage Service.
- (c) The Customer agrees and acknowledges that Hypha does not exercise any control over, authorise or make any warranty regarding:
 - (i) the availability, response times or other characteristics of a Carriage Service, except as set out in this Agreement or any related agreements;
 - (ii) the accuracy or completeness of any content which the Customer or its users may use, obtain, access or transmit using the Carriage Services, including any data which Hypha or a Starlink may cache as part of the Carriage Services;
 - (iii) the consequences of the Customer or its users using, accessing or transmitting any content using a Carriage Service; or
 - (iv) any charges which a third party may impose on you in connection with the Customer's use of a Carriage Service.
- (d) In the event of any conflict between this section and Annexure 2 – Priority Plan Service Level Agreement Terms, the provision of Annexure 2 shall take precedent with respect to service availability and remedies for service interruption

5.6 Privacy

- (a) The Customer agrees and acknowledges, in order to be able to provide the Carriage Service, Hypha may need to provide the Customer's Personal Information or other details, to its suppliers or other third parties which may be located outside Australia (such as Starlink).
- (b) Customer consents to Hypha providing this information to those third parties (and those third parties using that information for the purposes of the Carriage Services).
- (c) All Personal Information provided to Hypha, unless agreed elsewhere in writing, shall be handled in accordance with Hypha's Privacy Policy.

5.7 Connecting Carriage Services

- (a) Some Carriage Services require a request for activation

by means of a written request of activation form must be submitted prior to any activation being completed.

- (b) Hypha excludes any and all liability to the Customer for, or in connection with, interruptions to the Services in the event that the Customer has failed to activate a Carriage Service.
- (c) Carriage Services may not be available in all locations and are contingent upon Network availability.

6. Equipment

6.1 Provision of Equipment

This clause 6 applies if Hypha has agreed to supply the Customer with Equipment by way of sale or hire under the terms of an Order.

6.2 Installation of Equipment

- (a) Unless Hypha has agreed to provide Installation Services, the Customer is solely responsible for installation of the Equipment in a location that has a clear field of view, in accordance with the Installation Guide. The Customer must not install the Equipment under a radome, as this may adversely affect terminal performance. The Customer should maintain a minimum separation distance of 4 metres between the Equipment and other co-located antennas. The Customer must install the Equipment securely so that it will not become dislodged due to weather or other external factors.
- (b) It is the Customer's sole responsibility to ensure compliance with all applicable building codes, zoning, ordinances, business district rules, conditions, restrictions, lease obligations and landlord/owner approvals and requirements that are applicable to the installation of the Equipment. The Customer is solely responsible for paying any associated fees or other charges, and to obtain any permits and other authorisations necessary for the installation of the Equipment.
- (c) Should use of the Equipment require any construction or alteration to property, Hypha is not obliged to reimburse any expenses or restore property to the same physical state as prior to delivery of the Equipment. If the Customer requires a permanent roof mount installation, they acknowledge the potential risks associated with this type of installation, including, without limitation, with respect to any warranty that applies to penetration of their vehicle/vessel roof, building roof or roof membrane.

6.3 Installation of Equipment on Moving Vehicles

Unless Hypha has agreed to provide Installation Services, the Customer agrees to take proper precautions when installing Equipment to be used on a moving vehicle or vessel. The Customer must ensure that the antenna mount is installed on a structurally sound, horizontal surface. The Customer acknowledges that Equipment falling into the road or off a vessel due to poor installation practices can cause serious accidents resulting in bodily injury. The Customer must not mount Equipment on any vehicle or vessel if it is not stable, or if it cannot be properly secured as described in the Installation Guide and used with the proper mount.

6.4 No Unauthorised Modification of Equipment

The Customer must not modify any Equipment in a manner that contradicts the Installation Guide or would otherwise alter the transmission characteristics of the equipment, including installation under a radome. The Customer acknowledges that the equipment warranty may be voided if it is determined that installation of modification of Equipment has resulted in a material degradation of the Carriage Services or Equipment.

6.5 Delivery of Equipment

- (a) The Equipment will be deemed to be delivered it arrives at the address nominated by the Customer. The Customer is not entitled to reject delivery of any Equipment on the basis of any minor deviation from description or quantity.
- (b) Hypha reserves the right to deliver Equipment in multiple instalments.
- (c) Risk in Equipment passes to the Customer at the time the Equipment is shipped or collected.

6.6 Delays in Delivery

- (a) Any delivery times made known to the Customer are estimates only.
- (b) Hypha will notify the Customer at the earliest practicable date if it believes that the delivery of Equipment will be delayed.
- (c) Hypha will advise the Customer of the new delivery date.

6.7 The Customer's delay or prevention of delivery

If Hypha is unable to deliver Equipment to the Customer because of an act or omission of the Customer including a failure of the Customer to fulfil its obligations under this Agreement:

- (a) the Equipment will be deemed to have been delivered; and
- (b) Hypha may store the Equipment until actual delivery is possible and the Customer will be liable for any Claim related to Hypha's storage of the Equipment, including but not limited to the costs of redelivery, storage fees incurred and insurance.

6.8 Collection

Where Equipment is collected by the Customer by collection from an address notified by Hypha, delivery of the Equipment will be deemed to have taken place at the time of that collection.

6.9 Warranty for Equipment

- (a) Subject to clause 15,
 - (a) Hypha warrants that the Equipment will be free from defects in materials and workmanship for a period of 12 months from the date of delivery.
 - (b) During the warranty period, Hypha will, at its option, repair or replace any defective Equipment, provided that the Customer has notified Hypha in writing of the defect and has returned the Equipment to Hypha

7. Installation Services

7.1 Provision of Installation Services

This clause 7 applies if Hypha has agreed to supply Installation Services to the Customer under the terms of an Order.

7.2 Installation Requirements

Where Hypha is required to perform Installation Services at a location nominated by the Customer (**Site**), the Customer must:

- (a) provide Hypha and its Representatives with access to the Site, equipment and other facilities and services as are reasonably required to perform the Services;
- (b) notify Hypha and its Representatives of any Site-specific requirements in advance;
- (c) provide Hypha and its Representatives with instructions and information necessary to complete the Installation Services;
- (d) ensure that the Site is safe and secure for Hypha and its Representatives to undertake the Installation Services; and
- (e) ensure that it and all of its Representatives comply with all laws with respect to the Site, including occupational health and safety laws.

8. Equipment Hire

8.1 Provision of Equipment for Hire

This clause 8 applies if Hypha has agreed to hire Equipment to the Customer under the terms of an Order.

8.2 Hire Period

Unless otherwise specified in an Order:

- (a) the Hire Period commences when the Equipment is delivered to the Customer pursuant to clause 6; and
- (b) the Hire Period ends when the Equipment is returned to the location specified by Hypha within Hypha's regular business hours, in the condition required by this Agreement, unless this Agreement is terminated earlier.

8.3 Agreement for Hire

- (a) Hypha agrees to hire Equipment to the Customer for the Hire Period.
- (b) The Customer acknowledges that title to the Equipment remains with Hypha, Starlink or their Representatives at all times. The Customer must not agree, attempt, offer or purport to sell, assign, sub-let, lend, pledge, mortgage, let on hire or otherwise part with possession or otherwise deal with the Equipment except as set out in this Agreement.

8.4 Use of Equipment

- (a) The Customer must ensure that the Equipment is only used:
 - (i) for the purpose and within the capacity for which it was designed;
 - (ii) (where applicable) by suitably qualified and licenced persons;
 - (iii) with due care and skill;
 - (iv) for a legal purpose and in a legal manner;
- (b) The Customer must ensure that while the Equipment is not in use, it is stored in a safe and secure location.
- (c) The Customer must immediately notify Hypha if the Equipment is damaged, lost or destroyed. The Customer must reimburse Hypha for any additional costs incurred by Hypha due to the damage or loss, including any insurance excess and any costs associated with

retrieving the Equipment.

8.5 Hire Fees

- (a) The Customer must pay the Fee for the hire of the Equipment for the Hire Period.
- (b) Where the Customer has, in breach of its obligations, failed to return the Equipment by the agreed time, the Customer must pay the Fee for this additional period as well as a Late Fee immediately upon demand. The Customer agrees that the Late Fee is a reasonable pre-estimate of the damages suffered by Hypha due to the failure to return the Equipment.
- (c) Where the Equipment is damaged during the Hire Period, the Customer must also pay the Fee for the period from the end of the Hire Period until the date the Equipment is repaired and available for hire by Hypha.
- (d) Where the Equipment is lost, destroyed, or becomes incapable of repair during the Hire Period, the Customer must also pay the Fee for the period from the end of the Hire Period until the date of receipt by Hypha of a replacement for that Equipment (or if Hypha elects not to replace the Equipment, the date that it could have received a replacement).

8.6 Maintenance & Care

- (a) The Customer is responsible for maintenance and care of the Equipment in accordance with any directions or manuals provided by Hypha or Starlink.
- (b) The Customer must return the Equipment in the condition supplied, in compliance with this Agreement.

8.7 Customer must not repair or modify Equipment

The Customer must not repair, modify, alter, or tamper with the Equipment.

8.8 Inspection

If requested by Hypha, the Customer must grant Hypha's Representatives access to the location where Equipment is used or stored for the purposes of inspecting the Equipment.

9. Retention of Title

9.1 Retention

- (a) This clause 9 applies where the Customer acquires Equipment from Hypha or there is otherwise Equipment at a location owned or controlled by the Customer and the Customer has not purchased the Equipment and paid for it in full.
- (b) All Equipment sold or supplied by Hypha to the Customer shall remain Hypha's sole and absolute property as legal and beneficial owner until such time as the Customer has paid Hypha:
 - (i) the agreed purchase price for such Equipment; and
 - (ii) all other sums due from the Customer to Hypha whether arising under any agreement between the parties or otherwise.

9.2 Customer's Obligations

Until such time as title in the Equipment passes to the Customer in accordance with clause 9.1(b) above:

- (a) the Customer must hold the Equipment on a fiduciary basis as bailee for Hypha;
- (b) the Customer must not, without Hypha's prior written consent:

- (i) assign, sub-let, charge, mortgage, pledge or create any form of Security Interest over, or otherwise deal with the Equipment in any way;
- (ii) alter, modify, tamper with, damage or repair the Equipment; or
- (iii) deface, remove, vary or erase any identifying marks, plate, number, notices or safety information, on the Equipment;
- (c) the Customer must keep the Equipment in their own exclusive possession, in a safe and secure location, separately from the property of any other person and in a manner which leaves them readily identifiable as Hypha's Equipment;
- (d) the Customer shall be fully responsible for any loss or damage to the Equipment caused following delivery of the Equipment to the Customer, and the Customer must at their own expense insure and keep insured such Equipment against all risks to a value equal to the full price payable by the Customer to Hypha for the Equipment to Hypha's satisfaction. Whenever requested by Hypha, the Customer must provide a copy of the policy of insurance for Hypha's inspection; and
- (e) if the Customer sells the Equipment or uses them to create a product which prevents the Equipment being identifiable to Hypha, the Customer is taken to hold the proceeds of sale of the Equipment or any product containing them on trust for Hypha and account to Hypha for those proceeds.

10. Security Interest

10.1 Security Interest

In order to secure the Customer's obligations under this Agreement, including any obligation to pay any amount to Hypha, the Customer:

- (a) acknowledges that each Order constitutes a Security Agreement for the purposes of the PPS Act;
- (b) grants to Hypha a Security Interest in respect of all Equipment sold, supplied, hired, leased, bailed or otherwise provided or made available to the Customer by Hypha and any proceeds thereof;
- (c) consents to Hypha perfecting such Security Interest by registration on the PPSR, including as a Purchase Money Security Interest;
- (d) undertakes to Hypha to do all things reasonably necessary or required by Hypha to assist Hypha in perfecting the registration of the Security Interest on the PPSR; and
- (e) waives, to the extent permitted by the PPS Act, its right to receive any notice of a verification statement or any other notice Hypha would otherwise be required to give under the PPS Act.

10.2 Dealings with Security Collateral

In relation to any Collateral for which Hypha has a Security Interest under this Agreement, the Customer agrees and warrants that the Customer that it:

- (a) has full right and title in any Collateral;
- (b) will disclose any and all encumbrances over Collateral as soon as possible;
- (c) will not allow any other encumbrances over the

Collateral without Hypha's express written permission; and

- (d) will not sell, dispose of, grant a license or lease, give control to another, part with possession, allow the value to be reduced, commingle, or deal with the Collateral in any way which could be harmful to Hypha's interests in the Collateral without Hypha's express written permission.

10.3 Enforcement

If Chapter 4 of the PPS Act would otherwise apply to the enforcement of this Agreement, the Customer agrees that the following provisions of the PPS Act will not apply to the enforcement of this Agreement: section 95 (notice of removal of accession), to the extent that it requires Hypha to give a notice to the Customer; subsection 121(4) (enforcement of liquid assets — notice to grantor); section 130 (notice of disposal), to the extent that it requires the Customer to give a notice to the Customer; paragraph 132(3)(d) (contents of statement of account after disposal); subsection 132(4) (statement of account if no disposal); section 135 (notice of retention); section 142 (redemption of collateral); and section 143 (reinstatement of security agreement).

11. The Customer's Obligations

11.1 General Obligations

- (a) When using the Services and Equipment the Customer must:
 - (i) comply with all laws, regulations, standards and industry codes applicable to the Customer;
 - (ii) comply with any rules imposed by any third party whose content or services the Customer accesses using a Service or whose network the Customer's data traverses;
 - (iii) not to use a Service or Equipment for unsolicited or unreasonably frequent or voluminous communications having regard to the nature and requirements of the Customer's business;
 - (iv) not intentionally disable or circumvent any protection or disabling mechanism related to the Services or Equipment;
 - (v) not attempt to reverse engineer or disassemble any Equipment;
 - (vi) not to install or store any software applications, code or scripts on or through the Services or Equipment unless it first obtains the written permission of Hypha;
 - (vii) not infringe any person's Intellectual Property Rights (such as by using, copying or distributing data or software without the permission of the owner); and
 - (viii) not send or receive content using the Services or Equipment other than for their intended use.
- (b) In the event the Customer allows a third party to use the Services or Equipment, the Customer will be responsible for any breach by a third party of any obligation, undertaking or warranty provided in this Agreement as if the Customer had committed the breach itself.

11.2 Account

- (a) Hypha may:
 - (i) monitor the Customer's account to ensure compliance with the Agreement;
 - (ii) investigate any misuse of the Services or Equipment and

may involve law enforcement agencies in doing so; and

- (A) if Hypha finds that the Customer has misused the Services or Equipment, Hypha may recover from the Customer any costs of investigating that misuse.
- (B) if the Customer's use of the Services or Equipment causes loss to another party and Hypha is required to pay compensation to that person, Hypha may require the Customer to reimburse Hypha.
- (b) The Customer is solely responsible for:
 - (i) keeping any usernames and passwords associated with its account for the Services secure; and
 - (ii) the use of its account, irrespective of who is using it, even if it is used without the Customer's permission.

11.3 Support and Maintenance

Hypha will provide reasonable assistance to the Customer in the form of support and maintenance as set out in the Service Plan.

11.4 Operational Issues

- (a) If the Customer requests Hypha to route traffic to a specific TCP/IP address, then Hypha may, in its absolute discretion, agree to the Customer's request. In the case of private IP addresses (or private networks), Hypha will consider the Customer's requested address range to determine whether the request can be accommodated within the Network. Hypha may charge an additional charge for this consultation.
- (b) The Customer must comply with any specific operating conditions as advised by Hypha from time to time. Compliance with these operating conditions may impact on the Customer's use of the Services and Equipment.
- (c) The Customer acknowledges that if Hypha relocates or discontinues Services or Equipment it may not be possible to duplicate all of the previous operating characteristics.

12. Payment Terms and Usage

12.1 Invoices and Time for Payment

- (a) Hypha will invoice the Customer and the Customer must pay the amount due on the invoice in accordance with the Payment Terms as set out in an Order.
- (b) Without limitation, the Payment Terms may require the Customer to pay for Equipment and Services:
 - (i) in full before delivery;
 - (ii) in instalments; or
 - (iii) with an initial deposit and the remainder within a specified time after delivery.
- (c) If the Customer is required to make payment in instalments, and such instalments are not received by Hypha by their due date, Hypha reserves the right to:
 - (i) halt any further delivery of Equipment or suspend Services until such time as the outstanding payment is made; and
 - (ii) claim reimbursement from the Customer for its reasonable costs incurred as a result of the delay.
- (d) If the Customer is required to make payment in full or to pay a deposit, Hypha is under no obligation to

supply any Equipment or Services until the relevant amount is paid to Hypha.

- (e) Payment must be made in a manner approved by Hypha. Where payment is made by credit card, Hypha may charge a credit card surcharge equal to its reasonable additional costs incurred.

12.2 Usual Payment Terms

For all standard Orders and unless otherwise stipulated in writing, Hypha will invoice the Customer as follows:

- (a) where Equipment is sold, the purchase price must be paid in full before delivery;
- (b) Equipment hire will be invoiced monthly in advance during the Hire Period, and each invoice must be paid within 30 days of the date of the invoice;
- (c) Installation Services will be invoiced after delivery, and must be paid within 30 days of the date of the invoice; and
- (d) Carriage Services will be invoiced monthly in advance during the Subscription Period, and each invoice must be paid within 30 days of the date of the invoice.

12.3 Failure to Pay

If the Customer fails to pay Hypha any amount under this Agreement by the due date for payment, Hypha may (without limiting its other rights) immediately do any or all of the following, without any liability, until all overdue fees are paid:

- (a) charge the Customer interest on the overdue amount at a rate of interest per annum equal to 2% above the standard contract default rate published by the Queensland Law Society from time to time;
- (b) withhold further performance of any obligations under any Order or other agreement between the parties until the overdue amount and interest has been paid in full;
- (c) suspend the Customer's access to Carriage Services;
- (d) (where Equipment is hired or sold on credit) enter into any premises owned or occupied by the Customer, or other premises where Hypha reasonably suspects the Equipment is located, for the purpose of recovering the Equipment, and the Customer indemnifies Hypha and its Representatives against any Claim arising from such entry;
- (e) terminate this Agreement without any obligation to refund the Customer any money in respect of the cancellation, even if the contractual term of this Agreement has not expired;
- (f) initiate proceedings against the Customer to recover the overdue amount (despite any dispute resolution clause in this Agreement); and
- (g) recover all costs to recover overdue amounts, including but not limited to legal costs and outlays on a full indemnity basis.

12.4 GST

- (a) In this clause 12.4, adjustment note, GST, tax invoice and taxable supply have the meaning given to them in the GST Law.
 - (i) For each taxable supply under or in connection with any Order: Hypha will be entitled to charge the Customer for any GST payable by Hypha in respect of the taxable supply;

- (ii) the Customer must pay Hypha the amount of the GST at the same time as the relevant charge applicable to the supply becomes payable under the Order; and
- (iii) Hypha must provide a valid tax invoice or adjustment note to the Customer in respect of the taxable supply.
- (b) The price of all Equipment and Services is exclusive of GST unless expressly stated to be inclusive of GST.

12.5 Duties

The Customer is responsible for paying all government charges, or duties of any kind incurred in or in connection with Hypha's provision of credit, or supply of Equipment or Services. Such charges include without limitation all stamp duties, financial institution duties, and any other charges or duties of a like kind.

13. Intellectual Property and Data Rights

13.1 Hypha's Intellectual Property Rights

- (a) All title, ownership rights and Intellectual Property Rights in the Services, Equipment, software, customer portal, documentation, Operational Data and any improvements, modifications, enhancements, reports, analytics, derivatives or aggregated data arising from them are owned by, or licensed to, Hypha.
- (b) Nothing in this Agreement grants the Customer any right, title or interest in any Intellectual Property Rights owned by or licensed to Hypha except as expressly set out in this Agreement.
- (c) Nothing in this Agreement grants the Customer any rights in or licence to use or reproduce any Intellectual Property Rights owned by Starlink or any other third party.

13.2 Customer Data

- (a) The Customer retains ownership of its Customer Data.
- (b) The Customer grants Hypha a non-exclusive, royalty-free, worldwide licence to use Customer Data to the extent reasonably necessary to provide the Services and Equipment and perform its obligations under this Agreement.

13.3 Operational Data

- (a) Hypha may collect, generate, store, process and retain Operational Data in connection with the provision, operation, monitoring, support and improvement of the Services and Equipment.
- (b) As between the parties, all right, title and interest in and to Operational Data vests in and remains the property of Hypha.
- (c) Hypha may use, analyse, reproduce, modify, aggregate, anonymise, de-identify, retain and disclose Operational Data for any lawful business purpose, including providing, supporting, improving and developing its products, services and technologies, including artificial intelligence, machine learning, analytics and benchmarking activities.

13.4 Protection of Intellectual Property

- (a) If the Customer becomes aware of any infringement or threatened infringement of any Intellectual Property Rights, the Customer must promptly notify Hypha and provide reasonable assistance required by Hypha in relation to any action taken in connection with that infringement.

13.5 Survival

- (a) This clause survives termination or expiry of the Agreement.

14. Termination

14.1 Termination by Customer

- (b) The Customer may terminate an individual Carriage Service at any time by giving 30 days' written notice to Hypha.
- (c) The cancellation of a Carriage Service will take effect the day after the last day of the current Subscription Period unless otherwise agreed in written between the parties.
- (d) If the Carriage Service is cancelled before the expiry of the Subscription Period, the Customer must pay Hypha a cancellation fee equal to 100% of the subscription Fee from the date cancellation takes effect. This is in addition to any other amounts payable by the Customer for the Service such as usage charges and excess usage charges incurred up to and including the date cancellation takes effect.

14.2 Termination by Hypha

- (a) Hypha may cancel the Agreement or any Order for convenience by giving 30 days' written notice.
- (b) Hypha may also cancel the Agreement or any Order immediately by written notice if:
 - (i) the Customer has committed a breach of this Agreement and it is incapable of being remedied; or
 - (ii) the Customer has failed to remedy a breach of this Agreement within 5 Business Days after receipt of notice of the breach; or
 - (iii) the Customer has suffered an Insolvency Event.
- (c) In the event that Carriage Services are terminated, the Customer must cease using the Carriage Services; and
- (d) If Hypha has hired Equipment to the Customer and the relevant Order has been terminated, the Customer must return that Equipment to Hypha, or allow Hypha's Representatives access to premises owned or occupied by the Customer to remove the equipment, at the Customer's cost.

14.3 Termination not to affect obligation to pay

Termination of this Agreement or any Order shall not affect the Customer's obligation to pay any outstanding amounts or other amounts in relation to Equipment or Services.

15. Limitation of Liability

15.1 General limitations and exclusions

- (a) The Customer acknowledges and agrees that:
 - (i) Hypha is not responsible for the conduct or activities of any other user of the Services or Equipment; and
 - (ii) the Customer is entering into and acquiring, goods or services under this Agreement for commercial purposes and not for domestic, personal or household use.
- (b) If the Customer is a consumer within the meaning of the Consumer Law, there are certain rights (such as the consumer guarantees implied by the Consumer Law, which cannot by law be excluded (**Non-Excludable Conditions**)). This clause is subject to those Non-Excludable Conditions.

- (c) Subject to the application of any applicable Non-Excludable Conditions and to the maximum extent permitted by law, Hypha:
- (i) excludes from this Agreement all guarantees, conditions and warranties that might but for this clause be implied into this Agreement;
- (ii) excludes all liability to the Customer for any Claims suffered or incurred directly or indirectly by the Customer in connection with this Agreement, including using the Services or interruptions to the Services, whether that liability arises in contract, tort or under statute; and
- (iii) will not, under any circumstances, be liable to the Customer for any loss of revenue, loss of profits, loss of anticipated savings or business, pure economic loss, loss, corruption or inaccuracy of data, loss of value of equipment (other than the cost of repair), loss of opportunity or expectation loss, and any other form of consequential, special, indirect, punitive or exemplary loss or damages.
- (d) If the liability of Hypha under this Agreement cannot be lawfully excluded, to the maximum extent permitted by law, Hypha's liability for breach of any Non-Excludable Conditions is limited:
 - (i) in the case of goods, to (at Hypha's option) the replacement of the goods or the supply of equivalent goods; the repair of the goods; the payment of the cost of replacing the goods or of acquiring equivalent goods; or the payment of the cost of having the goods repaired;
 - (ii) in the case of services, to (at Hypha's option) the supplying of the services again; or the payment of the cost of having the services supplied again to a maximum amount of \$20,000 (for all Claims in aggregate).

15.2 Specific Limitations and exclusions

Without limiting any other clause of this Agreement, the Customer agrees that neither Hypha, nor Starlink will be responsible for damage to Equipment after delivery, or for Service malfunctions resulting from:

- (a) manual re-pointing of the antenna;
- (b) repair, modification, or disassembly of the Equipment by anyone other than Starlink, Hypha or their authorised Representatives;
- (c) failure to follow the Installation Guide or any instructions from Starlink or Hypha, including by obstructing the Equipment's field of view;
- (d) fire, flood, wind, lightning, earthquake, weather, or other acts of nature or God;
- (e) spills of food or liquids on the Equipment;
- (f) planned or emergency maintenance on the Network;
- (g) problems with the Customer's electrical power or network equipment;
- (h) misuse, abuse, accident, vandalism, alteration, or neglect;
- (i) normal wear and tear or deterioration, or superficial defects, dents, or marks that do not impact performance of the Equipment;
- (j) use in combination with devices or software not

provided or approved by Hypha or Starlink;

- (k) inability to obtain or maintain necessary permissions, authorisations, or permits; or any events not reasonably within Hypha's or Starlink's control.

15.3 Assumption of Risk

The Customer agrees that use of the Services and Equipment, and use by anyone using the Customer's account, is at the Customer's sole risk. Services are not suited for or intended as a mission-critical or safety-of-life service.

16. Indemnity

16.1 Scope of Indemnity

The Customer indemnifies and will keep Hypha and its Representatives indemnified against all liability arising from Claims in connection with:

- (a) libel, slander, defamation, product disparagement or indecent, false, misleading or deceptive conduct;
- (b) any use or misuse of the Services or Equipment by the Customer or its Representatives;
- (c) any breach of the Customer's obligations under this Agreement or the Starlink Terms;
- (d) infringement of Intellectual Property Rights;
- (e) any incorrect, fraudulent or false information provided by the Customer or its Representatives; and
- (f) any of the circumstances referred to in clause 15.2.

16.2 Conditions of indemnity

- (a) Hypha may make a claim under indemnities in this Agreement in relation to a cost before having incurred the cost, or before making a payment in relation to the cost.
- (b) The indemnities in this Agreement shall be in addition to any damages for breach of contract to which Hypha may be entitled. Nothing in the indemnities in this Agreement will be construed so as to prevent Hypha from claiming damages in relation to the Customer's breach of any term of this Agreement.
- (c) Each indemnity in this Agreement is a continuing obligation, separate and independent from the other obligations of the parties and survives termination of this Agreement for whatever reason.

The Customer's liability under this clause 16 will be reduced proportionately to the extent that the relevant Claim was caused or contributed to by the negligence, willful misconduct or breach of this Agreement by Hypha.

17. General

17.1 Communications

- (a) All notices and communications must be in writing, and may be sent by mail, hand delivery or by email. However, if communications are sent by means other than email, a copy must also be sent by email.
- (b) Notices must be sent to the addresses of the parties specified in the Quote, or as otherwise notified to the other party in writing.
- (c) A communication by email will be taken to have been received by the addressee at the earlier of the time stated in a read receipt sent by the recipient's computer or when the message has been delivered to the email

address of the addressee.

- (d) A communication that is received after 5pm on a Business Day, or on a non-Business Day, shall be deemed to be received at 9am on the next Business Day.

17.2 Confidentiality

- (a) Each party must keep confidential and not disclose any confidential information of the other party disclosed or obtained in connection with this Agreement, except:
 - (i) as required by law;
 - (ii) to its Related Entities, Representatives, professional advisers, insurers or financiers who have a need to know the information; or
 - (iii) with the prior written consent of the other party.
- (b) This clause does not apply to information that is publicly available other than through a breach of this Agreement.
- (c) This clause survives termination or expiry of this Agreement.

17.3 Electronic communications and counterparts

For the purposes of the *Electronic Transactions Act 1999* (Cth) and the *Electronic Transactions (Queensland) Act 2001* (Qld), the parties agree to send, receive, and execute notices and documents electronically, and agree that any document signed electronically will be binding with the same effect as a physical signature. The parties agree that documents may be executed in counterparts, including counterparts executed or exchanged electronically, and if so, the counterparts taken together constitute one and the same.

17.4 Inconsistency with other documents

Subject to clause 3, if this Agreement is inconsistent with any other document between the parties, this Agreement prevails to the extent of the inconsistency.

17.5 Severability

Any clause of this Agreement, which is invalid or unenforceable, is ineffective to the extent of the invalidity or unenforceability without affecting the remaining clauses of this Agreement.

17.6 Unforeseen Events

A party is not responsible for any loss arising out of any occurrences or condition beyond its control, including but not limited to acts of war (whether declared or not) or terrorism, the mobilisation of armed forces, civil commotion or riot, natural disaster, industrial action or labour disturbance, pandemic or epidemic, currency restriction, embargo, action or inaction by a government, a failure of a supplier, public utility or common carrier or computer disruption due to the effects of a computer virus, trojan, malware or other malicious code.

17.7 Assignment

- (a) The Customer may only assign, encumber, declare a trust over or otherwise create an interest in its rights under this document with the consent of Hypha.
- (b) Hypha may assign, encumber, declare a trust over or otherwise create an interest in its rights under this document without the consent of the Customer, and may disclose to any potential holder of the right or

interest any information relating to this document or any party to it.

- (c) Hypha may perform any of its obligations under this Agreement through a Related Entity.

17.8 Rebates

The Customer acknowledges that Hypha may offer a rebate or referral fee to our referral partners in connection with the Services and/or Equipment supplied under this Agreement.

17.9 Amendment

Hypha may amend this Agreement by providing the Customer 30 days' written notice.

17.10 No waiver except in writing

No part of this Agreement will be deemed waived, and no breach excused unless such waiver or consent is provided expressly and in writing.

17.11 Giving effect to this document

Each party must do anything (including execute any document) and must ensure that its employees and agents do anything (including execute any document), that the other party may reasonably require to give full effect to this document.

17.12 Reliance

Neither party has entered into any contract under this Agreement in reliance on or as a result of any representation, promise, statement, conduct or inducement by the other otherwise than as set out in this Agreement.

17.13 Governing law

The laws of Queensland, Australia govern this Agreement. The parties submit to the non-exclusive jurisdiction of courts exercising jurisdiction there.

Schedule 1 – Starlink Terms of Service

STARLINK TERMS OF SERVICE

Your order for two-way satellite-based internet service ("Services") and a Starlink antenna, WiFi router, power supply and mount ("Starlink Kit" or "Kit") is subject to these Starlink Terms for Australia, including any Trade Compliance Certifications and any terms incorporated by reference, including the [Starlink Policies](#).

These Terms, together with the details set out in the applicable Order and this Agreement, form part of the agreement between the Customer and Hypha.

Hypha is an authorised reseller of Starlink services and equipment.

By placing an Order for, receiving or using the Services or Starlink Kit, the Customer agrees to these Terms, which govern the Customer's use of the Services and Starlink Kit.

1. **AGREEMENT TO PURCHASE STARLINK KIT AND SERVICES.**
 1. **No Resale.** You may not resell access to the Services to others as a stand-alone, integrated or value-added service under this Agreement. You warrant that you are the end-user of the Services and Starlink Kit.
 2. **Payments and Monthly Subscription.** When Services become available in your area, Hypha will notify you by email that we are preparing to ship your Kit. You authorize Hypha to charge your approved payment method for **(a) a one-time purchase price on the balance of your Starlink Kit and any accessories, including shipping & handling and applicable taxes, if applicable; (b) monthly recurring charges, including applicable taxes, for the Services selected in your Order, starting 14 days after Kit activation, and (c) additional fees for "Add-On Services" such as (but not limited to) Priority Access, Portability or Transcontinental Data, but only if you have opted-in to these optional Services.**
 3. **Payment Method.** You authorize Hypha to charge an approved payment method, including bank-to-bank payments, credit or debit cards (where available) for all charges made under the Agreement. Use of a credit or debit card is subject to the terms and conditions in your card member agreement, including fees that may be charged by the issuer. Hypha may also update your payment method data with information provided by the payment service providers. You authorize us to continue to charge your payment method following any update to your information.
 4. **Discounted Services.** Hypha may offer discounted Services ("Discounted Services") in your region for eligible users. Quantity limits apply. Hypha may start and cease offering Discounted Services at any time.
5. **Title to Starlink Kit.** Hypha will transfer title to the Starlink Kit and any accessories to you at the time of delivery.
6. **Shipping & Handling.** Shipping and handling charges will apply and are non-refundable. Please consult your Hypha account for an estimate of delivery times. Deliveries may require signature. Hypha will use the carrier of its choice.
7. **Taxes, Fees, Surcharges.** You agree that the supply of the Services, the Starlink Kit, and any accessories are taking place in Australia and that the price of the Services, the Starlink Kit and any accessories includes taxes and fees which we may collect from you, including Goods and Services Tax ("GST"). You are also responsible for any additional government fees, rights of way charges, license or permit fees, and any other duties, charges or surcharges imposed on the sale or use of the Services or Starlink Kit to the extent permitted by law.
8. **Bills, Payment Disputes & Suspended Services.** Bills are provided to customers on a monthly basis only. Bills must be paid in advance. Hypha may appoint an invoicing and collection agent on Hypha's behalf which is authorised by Hypha to invoice and collect payments. Hypha will nominate the collection agent in applicable Orders or as notified in writing to you by Hypha. You agree to pay to Hypha's nominated agent all bills issued by Hypha's collection agent. In the event of a genuine billing dispute raised by written notice to Hypha prior to the payment due date, you must timely pay all undisputed amounts. If the payment dispute is resolved against you, or if you simply fail to pay for Services on time, you must pay the amounts due or your Services will be suspended until the overdue amounts are paid.
9. **Software Updates and License Terms.** Software copies and updates installed on the Starlink Kit are not sold, only licensed to you personally by Starlink (on a non-exclusive, non-transferable, limited and revocable basis), for use as installed on the Starlink Kit and subject to [Software License and Usage Terms](#), and restrictions that Starlink posts on the Starlink website. Starlink reserves all intellectual property rights and other rights and interests in the Starlink Kit, the Services, and the software, and grants no license, except as expressly granted in this Agreement.
10. **Policies.** You agree to comply with the linked [Starlink Legal](#)
2. **STARLINK KIT INSTALLATION.**
 1. **Kit Install Guidelines.** At Starlink's sole discretion, Starlink determines that your installation or

modification of a Starlink Kit has resulted in a material degradation of the Service or equipment, the equipment Limited Warranty may be voided. Should use of the Services require any construction or alteration to your property, Hypha is not obliged to reimburse any expenses or restore your property to the same physical state as prior to delivery of Services. If you require a permanent roof or vehicle mount installation, you acknowledge the potential risks associated with this type of installation, including, without limitation, with respect to any warranty that applies to your roof, vehicle, vessel for penetration of the membrane. Follow the Install Guide. If you cannot safely install the Starlink Kit, do not install it and seek professional assistance. You are responsible for installation of the Starlink Kit in a location that has a clear field of view per the Install Guide available on the Starlink website. Do not install under a radome; doing so may adversely affect terminal performance. You should maintain a minimum separation distance of 4m (14 ft.) between Starlink and other co-located antennas. You are also responsible for installing the Starlink Kit securely so that equipment will not become dislodged due to weather or other external factors. You shall not modify the Starlink Kit in a manner (include cosmetic/paint changes) that contradicts the Install Guide or would otherwise alter the transmission characteristics of the equipment, including placing the antenna under a cover/radome, unless approved by Starlink. Should use of the Services require any construction or alteration to property, Hypha is not obliged to reimburse any expenses or restore property to the same physical state as prior to delivery of Services. If you require a permanent roof mount installation, you acknowledge the potential risks associated with this type of installation, including, without limitation, with respect to any warranty that applies to penetration of your vehicle/vessel roof, building roof or roof membrane.

2. **Kit Install Authorizations.** It is your responsibility to ensure compliance with all applicable building codes, zoning, ordinances, business district or association rules, covenants, conditions, restrictions, lease obligations and landlord/owner approvals and requirements for the installation of the Starlink Kit, to pay any associated fees or other charges, and to obtain any permits and other authorizations necessary for the Services and the installation of the Starlink Kit.

3. **IN-MOTION USE PROHIBITED FOR UNDESIGNATED KITS AND COUNTRIES.** USE OF STARLINK SERVICES IN-MOTION MAY REQUIRE ADDITIONAL AUTHORIZATIONS. STARLINK MAY SEEK AUTHORIZATIONS FOR YOU TO USE THE SERVICE AND KIT IN-MOTION WITHIN THE TERRITORIAL WATERS, AIRSPACE OR ON LAND FOR CERTAIN JURISDICTIONS. YOU ARE SOLELY RESPONSIBLE FOR (A) UNDERSTANDING AND COMPLYING WITH ALL APPLICABLE LAWS AND REGULATIONS ASSOCIATED WITH THE USE OF THE SERVICES AND KIT IN-MOTION,

(B) OBTAINING ANY REQUIRED AUTHORIZATIONS, WHERE NECESSARY, AND

(C) CEASING USE OF THE SERVICES OR KIT WHERE NECESSARY BASED ON THE KIT'S GEOGRAPHICAL LOCATION. SERVICES IN-MOTION ON A VEHICLE OR VESSEL (e.g., CARS, VANS, RVs, BOATS) VIA AN UNAUTHORIZED KIT OR COUNTRY IS PROHIBITED, WILL VOID THE LIMITED WARRANTY OF YOUR KIT, AND MAY BE GROUNDS FOR TERMINATION OF YOUR AGREEMENT WITH HYPHA PER SECTION 4.4 OF THESE TERMS. Visit <https://www.starlink.com/specifications> for a description of the Starlink Kit models designated for in-motion use.

4. **Kit Installation on Moving Vehicles.** For Kits and mounts designated for in-motion use, you agree and are responsible for taking proper precautions for ensuring that the equipment mount is installed on a structurally sound, horizontal surface. You acknowledge that equipment falling into the road or off a vessel due to poor installation practices can cause serious accidents resulting in bodily injury. You shall not mount a Hypha Kit on any vehicle or vessel if it is not stable, or if it cannot be properly secured as described in the Install Guide and used with the proper mount designed for in-motion use.

3. FAIR USE POLICY AND DATA ALLOCATION PER SERVICE PLAN.

1. **Fair Use Policy.** *Fair Use Policy – Starlink* describes how Starlink manages its network traffic and allocate customer data based on your Service Plan.

2. **Mobility Service Behaviour**

Business and certain Mobility Service Plans are allocated a certain amount data for "Priority Access." Priority Access data under Business and certain Mobility Service Plans are given network priority over all other data on the Starlink network, including Residential Priority Access. See [Starlink's website](#) for details on Starlink expected performance per Service Plan. Depending on the service location, the following behavior will apply:

- (a) For Mobility service plans being operated on land or inland waters, Starlink users will receive unlimited Basic Access data after surpassing the allocated Priority Access data threshold in the applicable plan.
- (b) For Mobility service plans being operated in international waters, after surpassing the allocated Priority Access data threshold in the applicable plan, customers should contact Hypha in order to allow them to opt into more data.
- (c) For Business Service Plan, data usage between 11PM and 7AM will not count toward Priority Access data limits. For Mobility Service Plan, your data usage will count toward the Priority Access limits any time you use Starlink.

4. CHANGES, CANCELLATION, RETURNS, TRANSFERS AND TERMINATION.

1. **Changes by Hypha.** Hypha may change or discontinue Service plans, prices, these Terms, Kit versions, and [the Starlink Specifications](#) from time to time. Hypha will provide you with notice at least 21 days prior before changes come into effect. Hypha will provide you with an email notice summarizing the changes and your right to cancel this Agreement. By continuing to use the Services you agree to any changes.
2. **Service Cancellation and Right of Withdrawal.** You can stop the recurring monthly payment, cancel Services and withdraw in writing to Hypha. To avoid being billed for the following month of Services you must cancel Services prior to your invoice statement being generated. You are not entitled to any refunds, except as set forth under Sections 4.5.
3. **Transferring Services.** Subject to Hypha's prior written approval, You may have the option to transfer or assign your Services to another responsible party if (a) the account is paid- in-full and in good standing; and (b) the Service address is the same or the requested Service address has network availability.
4. **Termination by Hypha.** Hypha may, at any time, without prior notice, immediately terminate or suspend all or a portion of your account and/or access to the Services for: (a) a violation of these Terms, including the Starlink [Acceptable Use Policy](#); (b) a request and/or order from law enforcement, a judicial body, or other government agency; (c) unexpected technical or security issues or problems, including but not limited to a material malfunction of the Starlink network, software or hardware; (d) a failure to obtain or maintain the necessary governmental authorizations required to bring Services; (e) your participation in fraudulent, abusive, immoral, or illegal activities as solely determined by Hypha; (f) your withdrawal of consent to allow Starlink to use your personal data to comply with applicable laws as described in the [Starlink Privacy Policy](#); (g) your failure to pay any fees owed for Services if you have not cured such non-payment within 10-day period of receiving a request to cure from Hypha; or (f) its convenience after a 21 day notice period.
5. **Equipment Refund.** If Hypha terminates the Agreement for its convenience within 12 months of a delivery of Kits to you, then you will be entitled to a full refund on the fees paid (excluding taxes and shipping) for Kits that are returned to Hypha and that are unopened, unused, and undamaged, as solely determined by Hypha, if such Kit returns occur within 45 days of the termination of convenience notice. You are not entitled to any refunds, except as set forth under this Section.

5. LIMITED WARRANTY, DISCLAIMERS, REMEDIES, AND LIABILITIES.

1. **Limited Warranty.** The Starlink Kit and Services are subject to the following [Limited Warranty](#). The Limited Warranty is passed through by Hypha to you. You acknowledge that the Limited Warranty is given by Hypha and not Starlink. All references to Starlink giving warranties and performing warranty services in the Limited Warranty are to be read as references to Hypha. All warranty claims by you must be made to Hypha and not Starlink.
2. **DISCLAIMERS.** EXCEPT AS SET FORTH IN SECTION 5.1 (LIMITED WARRANTY) AND 8.3 (LIMITED REMEDIES), TO THE EXTENT PERMITTED BY LAW, HYPHA PROVIDES THE STARLINK KIT AND SERVICES "AS IS," WITHOUT ANY EXPRESS WARRANTY, CONDITION OR REPRESENTATION. TO THE EXTENT PERMITTED BY LAW, HYPHA DISCLAIMS ALL IMPLIED WARRANTIES, CONDITIONS AND REPRESENTATIONS, INCLUDING ANY IMPLIED WARRANTY OR CONDITION OF MERCHANTABILITY, FITNESS FOR PARTICULAR PURPOSE, AND NON-INFRINGEMENT.
3. **LIMITATIONS OF LIABILITY.** TO THE EXTENT PERMITTED BY LAW, HYPHA WILL NOT BE LIABLE FOR ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE, INDIRECT DAMAGES, LOSS OF GOODWILL OR BUSINESS PROFITS, LOST REVENUE, WORK STOPPAGE, LOSS OR CORRUPTION OF DATA, COMPUTER FAILURE, DATA SECURITY BREACH, MALFUNCTION OR ANY LOSSES OR DAMAGES ARISING OUT OF OR RESULTING FROM THE KIT INSTALLATION, REPAIR, REMOVAL, OR OTHER ASSOCIATED SERVICES. TO THE EXTENT PERMITTED BY LAW, HYPHA'S LIABILITY UNDER THESE TERMS FOR ANY INDIVIDUAL CLAIM OR ALL CLAIMS IN THE AGGREGATE WILL NOT EXCEED THE TOTAL AMOUNT PAID BY YOU TO HYPHA UNDER THESE TERMS OVER THE SIX MONTHS PRECEDING THE CLAIM GIVING RISE TO THE LIABILITY. THE LIMITATIONS SET FORTH IN THIS SECTION WILL APPLY TO ANY CLAIMS OR DAMAGES ARISING OUT OF OR RELATED TO THE AGREEMENT, SERVICES OR STARLINK KIT, INCLUDING ANY EXEMPLARY OR PUNITIVE DAMAGES, REGARDLESS OF WHETHER HYPHA WAS INFORMED OR WAS AWARE OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE, AND REGARDLESS OF WHETHER CLAIMS ARE ASSERTED BASED ON CONTRACT, STATUTE, TORT, STRICT LIABILITY, NEGLIGENCE, OR OTHER LEGAL OR EQUITABLE CLAIM OR THEORY PROVIDED, EXCEPT IF AND TO THE EXTENT THAT ANY LIMITATION VIOLATES APPLICABLE MANDATORY LAW THAT THE PARTIES CANNOT DEROGATE FROM BY WAY OF CONTRACT. DESPITE THE FOREGOING, NOTHING IN THESE SERVICE TERMS IS INTENDED TO EXCLUDE, RESTRICT OR MODIFY ANY RIGHT OR REMEDY YOU HAVE IN STATUTE OR OTHERWISE TO THE EXTENT THAT RIGHT OR REMEDY CANNOT BE EXCLUDED, RESTRICTED OR MODIFIED UNDER LAW.
4. **ASSUMPTION OF RISK.** YOU AGREE THAT YOUR USE OF THE SERVICES AND THE STARLINK KIT, AND SUCH USE BY ANYONE USING YOUR ACCOUNT, IS AT YOUR SOLE RISK. SERVICES ARE NOT SUITED OR INTENDED AS A MISSION-CRITICAL OR SAFETY-OF-LIFE SERVICE.
5. **Exclusions and Force Majeure** Hypha is not responsible for damage to the Starlink Kit after delivery, or for Service malfunctions or

underperformance resulting from: (a) manual re-pointing of the antenna; (b) repair, modification, or disassembly of Starlink Kit by anyone other than Starlink or Hypha; (c) failure to follow instructions, including by obstructing the Starlink Kit's field of view or covering the antenna with a radome; (d) fire, flood, wind, lightning, earthquake, weather, or other acts of nature or God; (e) spills of food or liquids on Starlink Kit; (f) planned or emergency maintenance on the network; (g) problems with your electrical power or network equipment; (h) misuse, abuse, accident, vandalism, alteration, or neglect; (i) normal wear and tear or deterioration, or superficial defects, dents, or marks that do not impact performance of the Starlink Kit; (j) incompatible installation environment or use in combination with devices or software not provided or approved by Starlink or Hypha; (k) inability to obtain or maintain necessary permissions, authorizations, or permits; or (l) events not reasonably within Hypha or Starlink's control; (m) in-motion use with Kits and Services not authorized or designated for such use; (n) interference by other emitting devices or too many active or parallel network connections.

6. COMPLIANCE.

1. **General.** Customer agrees to comply with all laws and regulations applicable or related to the performance of its obligations under this Agreement, including but not limited to those related to telecommunications, privacy, copyright, data protection, rules on lawful intercept and government access to data related to the Services provided under this Agreement.
2. **Privacy.** Hypha processes personal information as described in its privacy policy located at [Hypha's Website](#) as amended from time to time.
3. **Acceptable Use Policy.** You agree not to use, or permit others to use, the Services in ways that (a) violate any applicable law or applicable regulation, (b) violate the Starlink [Acceptable Use Policy](#), or other policies available on the Starlink website, (c) infringe the rights of others, or (d) interfere with the users, Services, or Starlink Kit of the Starlink network or other networks. You are responsible for complying with the terms for any third-party services (e.g., video streaming or gaming apps) that you subscribe to using Starlink Services.
4. **International Trade Laws.** You must comply with all applicable International Trade Controls in the context of this Agreement, including applicable export control, economic sanctions, customs/import, anti-money laundering, and anti-corruption laws and regulations. You warrant, and continue to warrant, that you or your officers and shareholders are not on the specially designated nationals list, denied persons list, entity list, or any other similar applicable government list. You acknowledge that you are only authorized to access Services at the location identified on your Order, and you will not divert the Starlink Kit or Services to any other locations, or to users or for uses that are prohibited

under International Trade Controls. You agree to provide Hypha with a signed Trade Compliance Certification (Exhibit A), and will re-certify compliance upon reasonable request. Hypha reserves the right to audit your compliance with such certifications.

5. Modifications to Hypha Products & Export Controls.

Hypha Kits and Services are commercial communication products. Off-the-shelf, Starlink can provide communication capabilities to a variety of end-users, such as consumers, schools, businesses and other commercial entities, hospitals, humanitarian organizations, non-governmental and governmental organizations in support of critical infrastructure and other services, including during times of crisis. However, Starlink is not designed or intended for use with or in offensive or defensive weaponry or other comparable end-uses. Custom modifications of the Starlink Kits or Services for military end-uses or military end-users may transform the items into products controlled under U.S. export control laws, specifically the International Traffic in Arms Regulations (ITAR) (22 C.F.R. §§ 120-130) or the Export Administration Regulations (EAR) (15 C.F.R. §§ 730-774) requiring authorizations from the United States government for the export, support, or use outside the United States. Hypha aftersales support to customers is limited exclusively to standard commercial service support. At its sole discretion, Hypha may refuse to provide technical support to any modified Starlink products.

6. **Security Measures.** You acknowledge that Starlink administers and enforces cybersecurity policies and procedures to identify and respond to incidents involving Starlink data, mitigate the effects of any such incidents, document their outcomes, and notify appropriate stakeholders (including authorities and affected data subjects, as appropriate).

7. INDEMNIFICATION.

You agree to defend and indemnify Hypha against all claims, any third-party claims, liability, damages, costs, and expenses, including but not limited to reasonable attorneys' fees, arising out of or related to these Terms, any and all uses of your account, and your use of the Services and Kit. This includes, without limitation: (a) responsibility for all such consequences resulting from actions by you or any user of your account or Services in violation of these Terms, the Acceptable Use Policy, or any applicable law or regulation; (b) negligent, reckless or intentionally wrongful act by you or any user of your account; and (c) any breach by you of any of the obligations contained in these Terms, including fines, penalties, losses, damages, expenses, costs of business interruption, loss of reputation, loss of business, loss of profits, loss of revenue and losses arising from frozen bank accounts arising from, related to, or in connection with, your breach of clause 6(4) (International Trade Laws). Your liability under this clause will be reduced proportionately to the extent that Hypha, its contractors or agents

caused or contributed to the relevant claim, demand, loss or damage.

8. NO UNAUTHORIZED TRANSFERS; ASSIGNMENTS.

You may not assign, sell, or transfer this Agreement, software installed on the Hypha Kit, or access to Services without Starlink's prior written consent. Unauthorized transfers or assignments will be null and void. Starlink may terminate this Agreement for cause if you attempt to transfer Services or this Agreement. If your Hypha Kit is stolen, destroyed or otherwise removed from your premises without your authorization, you must provide notice to Hypha immediately, or else you may be liable for payment for unauthorized use of the Services. You are liable for any charges or fees incurred by the use of the Services and Starlink Kit by anyone else. Hypha can assign its rights and obligations under these Terms, in whole or in part, to any individual or entity we choose, at any time, without notice to you, in our sole discretion, and Services may be provided by one or more legally authorized Hypha affiliates.

9. GOVERNING LAW AND DISPUTES.

For Services provided to, on, or in orbit around the planet Earth or the Moon, this Agreement and any disputes between us arising out of or related to this Agreement, including disputes regarding arbitrability ("Disputes") will be governed by and construed in accordance with the laws of the Queensland, Australia.

10. AGREEMENT TO ARBITRATE.

1. **Please carefully read Section 10 (Agreement to Arbitrate), which applies to any Disputes between you and Hypha.**
2. Under these Terms, you and Hypha each waive any and all rights to have a court or jury hear or decide any Disputes. Rather, Disputes will be settled by a single arbitrator in a binding arbitration administered by the Australian Centre for International Commercial Arbitration (ACICA) in accordance with ACICA Arbitration Rules, with the seat of the arbitration held in Brisbane, Australia. To learn more about the rules and how to begin an arbitration, go to <https://acica.org.au>.
3. **Notice of Dispute.** If you have a Dispute that cannot be solved through our Customer Support Team, before initiating arbitration, you must send a written notice to helpdesk@hypha.world describing your issue and your desired resolution. If your Dispute has not been resolved within 60 days of submitting a notice, you may initiate arbitration as described above.
4. **Arbitration Costs and Fees.** Each Party will bear their own costs of arbitration. However, if the arbitrator finds your claim is frivolous or brought for an improper purpose, then Hypha may seek reimbursement of any ACICA fees and expenses it has paid on your behalf.
5. **PROHIBITION ON CLASS ARBITRATION.** YOU AND HYPHA AGREE THAT TO THE EXTENT PERMITTED BY LAW

NO DISPUTE OR CLAIM MAY BE BROUGHT OR MAINTAINED AS PART OF A CLASS ACTION OR CLASS ARBITRATION OR OTHER REPRESENTATIVE ACTION OR ARBITRATION, REGARDLESS OF WHETHER THE APPLICABLE ARBITRATION RULES WOULD OTHERWISE PERMIT CLASS OR REPRESENTATIVE PROCEEDINGS. ACCORDINGLY, YOU AND HYPHA MAY ONLY PURSUE A CLAIM AGAINST THE OTHER IN AN INDIVIDUAL CAPACITY, AND MAY NOT PURSUE A CLAIM AGAINST THE OTHER ON BEHALF OF ANY OTHER PERSON, AND NO OTHER PERSON MAY PURSUE A CLAIM ON BEHALF OF YOU OR Hypha AGAINST THE OTHER. AN ARBITRATOR MAY ENTER AN AWARD ONLY IN FAVOR OF THE INDIVIDUAL PARTY SEEKING RELIEF

11. GENERAL PROVISIONS.

1. **Customer Support.** All support requests must be made o Hypha and not Starlink. Customer support is available for the Services and the Kit at helpdesk@hypha.world. Hypha will use its best efforts to isolate such faults to ensure they are not caused by any hardware, software, or network equipment external to the Kits, software or Services, provided under this Agreement. You acknowledge and agree that Customer support provided over the phone may be recorded for training and quality purposes.
2. **Severability.** If any term of this Agreement is to any extent invalid, illegal, or incapable of being enforced, such term shall be excluded to the extent of such invalidity, illegality, or unenforceability; all other terms hereof shall remain in full force and effect.
3. **Eligibility.** You must be at least 18 years old (or the legal age of majority in your jurisdiction of residence) to enroll in Services.
4. **Records.** You should keep copies of these Terms and any sales receipt or other materials relevant to your purchase of the Hypha Kit and Services for your records. Hypha reserves the right to substitute, change, cancel, or add to any part of these Terms at any time upon notice to you and your continued use of the Services constitutes agreement to the updated Terms. Hypha will notify you prior to materially changing its Terms.
5. **Electronic Delivery Policy, Customer Consent, and Notices** You consent to receive all agreements, updates, disclosures, policies, notices, and other information (collectively, "Notices") provided by Hypha or its affiliates via paper and/or electronic delivery at Hypha's sole discretion. Hypha may deliver or display Notices to you by email or pop-up window. You may receive periodic texts, emails, or other communications from Hypha, such as notices regarding expiration of your account and changes to these Terms
6. **No waiver** No waiver by Hypha of any breach of these Terms will be a waiver of any preceding or succeeding breach. No waiver by Hypha or any right under these Terms will be construed as a waiver of any other right. Hypha will not be required to give notice to enforce strict adherence of these Terms. A waiver must be provided in writing by an authorized

representative of Hypha to be effective.

12. TCP CODE.

The Telecommunications Consumer Protections ("TCP") Code contains standards which are designed to protect the rights of consumers, while also promoting good customer service and fair outcomes for consumers. Where the TCP applies to Hypha, Hypha is committed to meeting all the standards set out in the TCP Code. To that end, we provide the following commitments to you:

1. We will be open, honest and fair in our dealings with you, ensuring your privacy is protected;
2. You will receive accurate, clear, and relevant information on products and services from us before, during and, where appropriate, after the point of sale;
3. We will endeavor to have disputes resolved quickly and fairly;
4. Promotion of products and services will be clear, accurate and not misleading;
5. Disadvantaged and vulnerable consumers will be assisted and protected by our appropriate policies and practices;
6. You will receive an effective remedy from us if we breach the Code; and
7. We will use monitoring and reporting tools to ensure successful implementation of the Code.

13. Supplemental Terms

In this clause 13

- (a) Carriage Services means the carriage services provided by Hypha to you by way of satellite gateway or other connection facilitation device, with each connection representing an individual Service.
- (b) Network means the satellite-based network owned and operated by Starlink.

13.1 The Network

- (a) You acknowledge:
 - (i) that the Network is operated and owned by Starlink who is not controlled by Hypha;
 - (ii) from time to time, Starlink may vary, modify or change the Network at its discretion;
 - (iii) unless otherwise agreed upon in writing, Hypha is not responsible for any variations, modifications or changes to the Network by Starlink;
 - (iv) In the event that Starlink varies, modifies, or changes the Network, Hypha is under no obligation to contact you, although if Hypha reasonably suspects it may affect the Carriage Services of you, it will use best efforts to do so; and
 - (v) Hypha may vary the Carriage Services, without liability, if reasonably required for technical or operational reasons as long as the Service still complies with the Agreement.
- (b) Hypha has permission from Starlink to integrate the Services into the Network. However:
 - (i) Hypha does not hold any licenses for operating a carriage service under the Telecommunications Act 1997 (Cth) (Telecommunications Act), or any other

similar or related legislation;

- (ii) Hypha will not be responsible or liable for Starlink's compliance with any warrants, notices or other surveillance instruments under Australian legislation, including the Telecommunications Act, and you release and will hold Hypha entirely harmless for any Claim involving same; and
- (iii) Hypha takes no responsibility for Starlink's compliance with any laws, regulations or conditions in a jurisdiction in which the Carriage Services are provided to you.

13.2 No Guarantee or Warranty

- (a) You acknowledge:
 - (i) the provision of a Carriage Service is subject to bandwidth, network availability and capacity; and
 - (ii) that given the nature of satellite systems, the Network may experience some irregularities that cause temporary and/or unexpected interruptions.
- (b) You further acknowledges and agrees that due to the irregularities referred to in clause 13.2(c)(ii), Hypha does not guarantee or warrant that:
 - (i) a Carriage Service will be uninterrupted; or
 - (ii) there will be no congestion on the Network; and Hypha therefore does not guarantee or warrant the level or quality of a Carriage Service.
- (c) You agree and acknowledges that Hypha does not exercise any control over, authorise or make any warranty regarding:
 - (i) the availability, response times or other characteristics of a Carriage Service, except as set out in this Agreement or any related agreements;
 - (ii) the accuracy or completeness of any content which you or your users may use, obtain, access or transmit using the Carriage Services, including any data which Hypha or a Starlink may cache as part of the Carriage Services;
 - (iii) the consequences of you or your users using, accessing or transmitting any content using a Carriage Service; or
 - (iv) any charges which a third party may impose on you in connection with your use of a Carriage Service.

13.3 Connecting Carriage Services

- (a) Some Carriage Services require a request for activation by means of a written request of activation form must be submitted prior to any activation being completed.
- (b) Hypha excludes any and all liability to you for, or in connection with, interruptions to the Services in the event that you have failed to activate a Carriage Service.

**Annexure A – EXHIBIT A:
TRADE COMPLIANCE CERTIFICATION**

You are expected to comply with all applicable laws and adhere to the highest standards of ethical conduct in the context of your work with Hypha and Starlink. Please review and sign the following certification of compliance with applicable trade control laws.

Definitions:

- **Denied Party Lists** are the lists of Specially Designated Nationals, Denied Persons, Entities, or any other similar government list.
- **Government Officials** are (1) any officer or employee of any government or component of government (*e.g.*, a government minister, regulator, mayor, legislator, customs inspector or police officer); (2) an officer or employee of any entity or instrumentality in which a government or government entity possesses a majority or controlling interest; (3) a candidate for political office; (4) a political party; (5) a political party official; (6) an officer or employee of a public international organization (*e.g.*, the European Commission or World Bank); (7) a person who is acting in an official capacity for or on behalf of any government or component of a government, an entity in which a government or component of a government possesses a majority or controlling interest, a political party, a public international organization (even if the individual is acting in such capacity temporarily and without compensation); and, (8) in some circumstances, members of royal families.
- **Trade Control Laws** are export control, economic sanctions, anti-corruption laws and regulations that apply to Starlink and/or Hypha, including, but not limited to the Export Administration Regulations (EAR) (15 C.F.R. §§ 730-774); economic sanctions laws and regulations, including those administered by the U.S. Department of the Treasury, Office of Foreign Assets Control (OFAC) and the U.S. Department of State and the Australian government (“Sanctions”); and anti-corruption laws, including the Foreign Corrupt Practices Act, UK Bribery Act, Australian Criminal Code Act 1995 and applicable international and local country anti-corruption laws (“Anti-Corruption Laws”).

You Certify That:

1. As of the date of signature, neither you nor any of your affiliates, directors, or officers is subject to Sanctions, including by inclusion on a Denied Party List. You shall promptly notify a Hypha authorized representative in writing if you become the subject of Sanctions or if your export privileges are otherwise restricted, suspended, or revoked in whole or in part by any government entity or agency.
2. You have not made, offered, provided, or authorized, and will not make, offer, provide, or promise to make any payment or transfer anything of value, directly or indirectly through a third party, in connection with any business transactions involving Hypha or Starlink to: (i) any Government Official, (ii) an officer, director, or employee of any actual or potential customer of Hypha or Starlink, (iii) any officer, director or employee of Hypha or Starlink, or (iv) any other person or entity, if doing so would violate Anti-Corruption Laws. It is our collective intent that no payments or transfers of value shall be made which have the purpose or effect of public or commercial bribery, acceptance of or acquiescence in extortion, kickbacks or other unlawful or improper means of obtaining or retaining business.
3. If applicable, all representations and information supplied by you in response to due diligence questions from Hypha were complete and accurate. You shall notify Hypha in writing of any material corrections to or omissions from such original information supplied by you immediately upon identifying them.
4. You have instituted and will maintain policies and procedures designed to ensure compliance with Trade Control Laws, including prohibited party screening of Denied Party Lists and requirements with respect to accurate internal books and records.

Hypha may periodically request that you re-certify its compliance with Trade Control Laws.

The undersigned has been duly authorized to provide this Trade Compliance Certification to Hypha.

Company

Name:

Contact

Person:

Title:

Signature:

re:

Date:

Business

Address:

Phone

Number:

Email Address

Annexure B –Starlink Priority Plan Service Level Agreement

The Starlink Priority Plan Service Level Agreement, as published by Starlink and amended from time to time, is incorporated into and forms part of this Agreement. The Customer acknowledges and agrees that:

- a) the service levels, measurement methodology, exclusions, remedies and service credits applicable to Starlink Priority Plans are those specified in the then-current Starlink Priority Plan Service Level Agreement;
- b) any service credits or other remedies available under the Starlink Priority Plan Service Level Agreement are the Customer's sole and exclusive remedy in respect of any failure by Starlink to achieve the applicable service levels; and
- c) Hypha's obligations to the Customer in relation to service levels will not exceed the obligations assumed by Starlink under the Starlink Priority Plan Service Level Agreement.

A copy of the current Starlink Priority Plan Service Level Agreement is available at: [Priority Plan Service Level Agreement – Starlink](#)