



ELDERS ACCEPTABLE USE POLICY FOR BROADBAND SATELLITE AND BIG RED BROADBAND SATELLITE (BROADBAND CONNECT) SERVICES, BROADBAND SATELLITE (AUSTRALIAN BROADBAND GUARANTEE AND AUSTRALIAN BROADBAND GUARANTEE TRANSITIONAL) SERVICES DIAL-UP AND BROADBAND ADSL INTERNET SERVICES

14 August 2007

The Elders Acceptable Use Policy for broadband Satellite and Broadband Satellite (Broadband Connect, Australian Broadband Guarantee and Australian Broadband Guarantee Transitional) services, Dial-Up and broadband ADSL Internet services (each, a **Service**) is set out below. Please read it carefully.

1 KEY POINTS

- 1.1 This Acceptable Use Policy (“**AUP**”) applies to the use of the Service.
- 1.2 Your use of the Service is subject to the following rules and guidelines contained in this AUP. Words used in this AUP that have special definitions are given capital letters. The definitions are set out in the Dictionary at the end of this AUP.
- 1.3 This AUP is designed to ensure that your use of the Service does not break any laws, hinder the efficient operation of the Elders Network, interfere with the rights of other customers of the Service, or interfere more generally with the rights of Internet users.
- 1.4 You are responsible for ensuring that the use of the Service through your Elders-assigned Internet account complies with this AUP. You are also responsible for any use of the Service even for example, if it was committed with or without your consent, by a friend, family member, guest, employee or customer who gains access to your account.
- 1.5 Elders may amend this AUP from time to time by giving you notice. Elders may notify you, and you hereby consent to Elders sending you notices in such a way, by using one or more of the following methods:
 - (a) mail (to the last address you have given Elders);
 - (b) email (to your Primary Email Address) or;
 - (c) notice on the Elders Internet Service web site (<http://www.elderstelecommunications.com.au/goto/acceptableusepolicy>).

Amendments will be effective when posted on this website and any use of the Elders Network after the posting of any amendments will be considered acceptance of those amendments. You should consult this website regularly to ensure that your activities conform to the most recent version of the AUP.

- 1.6 In the event of a conflict between the term(s) of any Elders Standard Terms and this AUP, the term(s) of the AUP will govern.
- 1.7 The consequences of violation of this AUP are prescribed in clause 9 of this AUP, and include the right for Elders to immediately cancel the provision of the Service.
- 1.8 Complaints of violations of this AUP by other Elders users can be directed to customer support at: internetviolation@elders.com.au.
- 1.9 You acknowledge that Elders may use your Primary Email Address to send you various Service-related communications and other notices from time to time.

2 ILLEGAL ACTIVITY

- 2.1 The Elders Network may only be used for lawful purposes. You must not use the Service for any activity that breaches any law or violates any local, state, federal or international law, order or regulation. Prohibited activities include, but are not limited to:
- (a) posting, disseminating or in some cases accessing material which is unlawful. This includes material that is or would be classified RC or X and includes material that is or would be classified R where a Restricted Access System, which complies with the criteria determined by the Australian Communications and Media Authority (www.acma.gov.au), is not in place. R, RC and X content includes but is not limited to:
 - (i) material containing detailed instruction in crime, violence or drug use; child pornography; bestiality; excessive violence or sexual violence; real depictions of actual sexual activity; obscene material;
 - (ii) Content hosted in Australia which is classified R and not subject to a Restricted Access System. R rated Content includes but is not limited to material containing excessive and/ or sexual violence; implied or simulated sexual activity; or materials which deal with issues or contains depictions that requires an adult perspective; and
 - (iii) posting or disseminating material which violates the copyright or other intellectual property rights of others. You assume all risks regarding the determination of whether material is in the public domain;
 - (b) posting or disseminating material that defames, harasses or abuses anyone or violates their privacy;
 - (c) pyramid or other illegal soliciting schemes; and
 - (d) any fraudulent activities, including impersonating any person or entity or forging anyone else's digital or manual signature.

3 SECURITY

- 3.1 You are responsible for any misuse of the Service, as indicated in clause 1.4. Therefore, you must take reasonable steps to ensure that others do not gain unauthorised access to the Service through your account.
- 3.2 The Service must not be used to obtain or attempt to obtain unauthorised access to any computer, system or network. If you do not have authorisation, prohibited activities include, but are not limited to:
- (a) accessing, monitoring or using any data, systems or networks;
 - (b) probing, scanning or testing the vulnerability of a system or network;
 - (c) breaching any security or authentication measures for a system or network;
 - (d) accessing the account or private information of any other user; and
 - (e) accessing any server in violation of any acceptable use policy of that server,
- including any attempt to do any of the things mentioned in (a) to (e) above.
- 3.3 Use (or attempts to use) or distribution of tools designed for compromising security (such as password guessing programs, cracking tools, packet sniffers or network probing tools) is

prohibited. The transmission or dissemination of any information or software, which contains a virus or other harmful feature, also is prohibited.

- 3.4 You must not use (or attempt to use) the Service in a manner that may interfere with the technical operation of the Service or any other computer, system, network or telecommunications services, including, but not limited to denial of service attacks, flooding of a network, overloading a service, improper seizing and abuse of operator privileges and attempts to "crash" a host. You must not interfere (or attempt to interfere) with the regular workings of Elders' systems or network connections.
- 3.5 You are solely responsible for the security of any device you choose to connect to the Service, including any data stored on that device.
- 3.6 Elders recommends against enabling file or printer sharing of any sort. Elders recommends that any files or services you do choose to make available for remote access be protected with a strong password or as otherwise appropriate to prevent unauthorised access.
- 3.7 You must notify Elders immediately of any unauthorised or attempted unauthorised use of your Service and any other breach or attempted breach of security.

4 RISKS OF THE INTERNET

- 4.1 There are a number of activities that you can perform when accessing the Internet that may be harmful or cause loss to you, others that may access your service, or your equipment. Typical activities include but are not limited to the following:
 - (a) Downloading Content from the Internet which may introduce viruses or other harmful features to your computer;
 - (b) purchasing goods or services using the Internet;
 - (c) transmitting confidential information over the Internet (such as your credit card number or other personal information); and
 - (d) accessing and viewing Content on the Internet or otherwise available through the Service may be offensive to some individuals, or inappropriate for children. For example, it is possible to obtain access to Content that is pornographic, offensive and/or unsuitable for children.
- 4.2 You must bear all risk associated with the activities referred to in clause 4.1, and Elders shall have no liability for any claims, losses, actions, damages, suits or proceedings arising out of or otherwise relating to such activities.
- 4.3 Parents may minimise the risk of accessing illegal or offensive Content as well as manage children's use of the Internet by using a Filtering Solution. The Internet Industry Association (www.ii.net.au) provides a list of approved Filtering Solutions. Elders will provide access to one or more of these Filtering Solutions at a reasonable cost to you as part of the Service.
- 4.4 You have the right to make complaints to the Australian Communications and Media Authority about Internet Content which is or would be rated X or RC, or R and does not have a Restricted Access System in place.

5 CONTENT PUBLISHING

- 5.1 You are solely responsible for any Content that you publish via websites, email, newsgroups or other publishing mediums accessed via the Service. You must not publish via websites, email, newsgroups or other publishing mediums accessible via the Service material that is or would be RC or X (see clause 2.1 (a)). You must take appropriate precautions to prevent minors from

receiving your Content that may be inappropriate for them. This includes implementing a Restricted Access System on Content that is or would be rated R by the Classification Board.

- 5.2 Elders reserves the right to refuse to post or to remove any information or materials, in whole or in part, that it, in its sole discretion, deems to be offensive, indecent, or otherwise inappropriate regardless of whether such material or its dissemination is unlawful. This includes, but is not limited to: obscene material, fraudulent or deceptive statements, threatening, intimidating or harassing statements, or material which violates the privacy rights or property rights of others (copyrights or trade marks, for example) or is likely to be defamatory of another person.
- 5.3 Commonwealth Legislation allows the Australian Communications and Media Authority to direct Elders to remove certain prohibited or potentially prohibited Content from its servers or to prevent users from accessing certain Internet Content. Elders may take any steps necessary in order to ensure compliance with any relevant industry code of practice, or notification or direction from the Australian Communications and Media Authority, including removing any Content (including part or all of a website) from its servers, closing or suspending your account, filtering the Internet Content made available to you or restricting access to a particular website. Elders may take these steps at any time and without notice to you.
- 5.4 Elders reserves the right to discontinue access to any Usenet newsgroup from a Usenet news feed provided by Elders at any time and for any reason.
- 5.5 Elders is under no obligation to monitor transmissions or published content on the Service. However, Elders or its agents have the right to monitor such transmissions or published Content from time to time and to disclose the same in accordance with the Elders Standard Terms.
- 5.6 By using the Service to reproduce, publish, display, transmit or distribute Content, a user is warranting that the Content complies with this AUP and authorises Elders or its agents to reproduce, publish, display, transmit and distribute such Content as necessary for Elders to deliver the Content in a timely manner.

6 ELECTRONIC MESSAGING

- 6.1 Electronic messaging includes all forms of electronic communications to other individuals including email, instant messaging, Web to SMS, Internet chat, and online forums.
- 6.2 The Service must not be used to send bulk and/or unsolicited messages. This includes, but is not limited to commercial advertising, informational announcements, charity requests, petitions for signatures, chain letters and political or religious messages. Such messages must only be sent to those individuals who have explicitly requested it.
- 6.3 The Service must not be used to send messages to any individual who has indicated that he/she does not wish to receive messages from you.
- 6.4 The Service may not be used to collect or redirect responses from unsolicited email sent from accounts on other Internet hosts or email services which violates this AUP or the equivalent AUP or policy of any other Internet service provider or website. Moreover, unsolicited messages may not direct the recipient to any web site or other resource that uses the Elders Network.
- 6.5 Obscuring, altering or deleting the source of messages that you send or forging message headers is prohibited.
- 6.6 Sending numerous copies of the same or substantially similar messages, or sending very large messages or files, to a recipient with the intent to disrupt a server or account is prohibited (ie. "mail bombing").
- 6.7 The propagation of chain letters is similarly prohibited, whether or not the recipient wishes to receive such mailings.

- 6.8 Elders is not responsible for the forwarding of email sent to any account that has been suspended or cancelled. Such email may be returned to sender, ignored, deleted, or stored temporarily at the sole discretion of Elders.

7 ONLINE FORUMS

- 7.1 There are forums accessible on the Internet that are generally devoted to the discussion of a specific topic area and include, but are not limited to, newsgroups, message boards, chat rooms or mailing lists ("**Online Forums**"). The following rules are in addition to those in clause 6 for electronic messaging.
- 7.2 Messages posted to Online Forums must comply with the written charters for those forums. You are responsible for determining the policies of a given forum before posting to it. Binary files may only be posted to Online Forums that are specifically established for that purpose.
- 7.3 Posting or cross-posting the same or substantially similar messages to more than eight Online Forums is prohibited.
- 7.4 You must not disrupt or attempt to disrupt Online Forums by posting a large number of messages that contain no substantive content. Disruption occurs when normal discussion in the group is significantly hindered.
- 7.5 You must not use the Service to connect to an Online Forum from which you have been previously banned.

8 AUTOMATED APPLICATIONS

- 8.1 The Service is provided for interactive use. However, if automated programs or programs that maintain a persistent connection to a remote service are used, they must only be used when you are physically present at the computer. These activities include but are not limited to automated Download software, IRC "bots", continuous streaming media and peer-to-peer file sharing applications.

9 VIOLATION OF AUP

- 9.1 If the Service is used by you or by someone with access to the Service through your account, in a way that Elders, in its sole discretion, believes violates this AUP or the Elders Standard Terms, Elders may take any responsive action it deems appropriate.
- 9.2 Such actions may include, but are not limited to, temporary or permanent removal of Content, cancellation of newsgroup posts, filtering of Internet transmissions, and the immediate suspension or cancellation of all or any portion of the Service.
- 9.3 Elders has no liability for any such responsive actions and may take any other legal or technical action it deems appropriate, including taking action against offenders to recover the costs and expenses of identifying them. If your use of the service causes a loss to third parties, Elders may require you to pay compensation.
- 9.4 Elders is not obligated to regularly monitor your usage of the Service (including any Content posted, disseminated or accessed by you). However, Elders reserves the right to monitor your use of the Service to identify violations of this AUP, and to protect the Elders Network and other users of this Service.
- 9.5 Elders reserves the right to investigate suspected violations of this AUP, including the gathering of information from the user or users involved and the complaining party, if any, and examination of material on Elders' servers and the Elders Network. During an investigation, Elders may suspend the account or accounts involved and/or remove material that potentially violates this AUP.

- 9.6 In order to enforce this AUP, you hereby authorise Elders or its agents, to cooperate with:
- (a) law enforcement authorities in the investigation of suspected criminal violations; and
 - (b) system administrators at other Internet service providers or other network or computing facilities.
- 9.7 Such cooperation may include Elders providing the username, IP address, or other identifying information about a user. Upon cancellation of an account, Elders is authorised to delete any files, programs, data and email messages associated with such account.

10 GENERAL TERMS

- 10.1 The failure of Elders to enforce this AUP, for whatever reason, shall not be construed as a waiver of any right to do so at any time. You agree that, if any portion of this AUP is held invalid or unenforceable, that portion will be construed consistent with applicable law as nearly as possible, and the remaining portions will remain in full force and effect.
- 10.2 This AUP is governed by the laws of the Commonwealth of Australia and the laws of the state or territory in which you normally reside. You and Elders submit to the exclusive jurisdiction of the Courts of the Commonwealth, and its states and territories.
- 10.3 A reference in this AUP to a person includes a reference to a person, firm, corporation or other legal entity.
- 10.4 In this AUP, the singular includes the plural and vice versa.
- 10.5 In this AUP, different grammatical forms of the same word have the corresponding meaning.
- 10.6 In this AUP, examples of words of inclusion are illustrative only and do not limit the generality of the relevant subject.
- 10.7 In this AUP, a reference to a clause is to a clause in this document, unless otherwise stated.

DICTIONARY

AUP/Acceptable Use Policy - means this Elders Acceptable Use Policy prescribing the rules and guidelines which you must comply with in using the Services or any of them.

Classification Board – means the Classification Board established under the Classification (Publications, Films and Computer Games) Act 1995 (Cth).

Content - means all forms of communication including narrative descriptions, graphics (including photographs, illustrations, images, drawings and logos), executable programs, video recordings and audio recordings.

Download / Downstream - means data moving from the Elders Network to your modem or connected device.

Elders - means Elders Telecommunications Pty Ltd ACN 117 261 864.

Elders Network - means the network through which the Service is provided, including all of its constituent parts (both software and hardware).

Elders Standard Terms - means the terms of the Elders agreement on which the individual user contracts with Elders for the Service.

Filtering Solution - means Internet filtering software or system approved for use under the IIA Codes.

IIA Codes - means the Internet Industry Codes of Practice registered under the Broadcasting Services Act 1992 (see www.iaa.net.au).

Primary Email Address - means the first email address provided with your Service.

R rated - includes (but is not limited to) material containing excessive and/or sexual violence, implied or simulated sexual activity, or materials which deal with issues or contains depictions that requires an adult perspective.

RC rated – includes (but is not limited to) material containing detailed instruction in crime, violence or drug use, child pornography, bestiality, excessive violence or sexual violence, real depictions of actual sexual activity or obscene material.

Restricted Access System - means a Restricted Access System as referred to on the Australian Communications and Media Authority (www.acma.gov.au).

Service - means any of the:

- (a) Broadband Satellite Service;
- (b) Broadband Satellite (Broadband Connect, Australian Broadband Guarantee and Australian Broadband Guarantee Transitional) Service;
- (b) Dial-Up Internet Service; and
- (c) Broadband ADSL Internet Service,

as described in the Service Description relating to that service, depending on the service option you have selected.

Upload / Upstream - means data moving from your modem or connected device to the Elders Network.



X rated – includes (but is not limited to) material containing real depictions of actual sexual activity.