

Terms of use

Terms of Use

1. The TW Hub™

The Telstra Wholesale Hub (**TW Hub™**) is operated by Telstra. Your access to and use of the TW Hub™ is subject to these terms, your wholesale contract, the Telstra Privacy Statement, the Copyright and Trade mark Notice and any other terms contained on the telstrawholesale.com website (together, the **Terms**). Access to certain content on the TW Hub™ may be governed by specific terms which override or supplement these terms. Terms outlined in your Telstra Wholesale Agreement or Customer Relationship Agreement (**Access Agreement**) will apply where relevant to **TW Hub™**, unless otherwise changed and reflected in these Terms.

You and **Your** means the person(s) or legal entity and its employees, contractors and agents using the TW Hub.

By accessing the TW Hub™, You:

- agree to be bound by these Terms on behalf of Yourself (if an individual) and the company (or other legal entity) that You represent; and
- if agreeing to these Terms on behalf of another person or entity, warrant that You have authority to agree to these Terms and bind the person or entity.

If certain activities related to the acquisition of services under Your Access Agreement are able to be carried out by You and Telstra using the TW Hub™, then You and Telstra can use the TW Hub™ to perform those activities notwithstanding anything to the contrary in Your Access Agreement.

The TW Hub™ is available 24 hours a day, 7 days a week, but the standard hours of availability for each application offered via the TW Hub™ may vary.

2. Confidentiality

By using or accessing the TW Hub™ you may become aware of, or get access to certain information which is confidential to Telstra. Where you know or reasonably ought to know that such information is Telstra's confidential information, you must not disclose such information to any third party without Telstra's prior written consent or as permitted under the Access Agreement.

3. What You must do

You must use the TW Hub™ responsibly according to these Terms. Access to and use of the TW Hub™ is associated with Your e-mail address. Telstra will create and provide access to a primary user nominated by You (using an email address) and You may then create other users

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to use that access. You may register a number of e-mail addresses however each e-mail address may only be registered to use the TW Hub™ once. You may not access or use the TW Hub™ in any other manner.

You:

- are responsible for all access to and use of the TW Hub™ (including any unauthorised use) using Your email address, whether that access or use is by You or by any third party. You must immediately notify us if you become aware of a breach of security or unauthorised Terms of use access to the TW Hub™;
- will have an obligation to pay Telstra for all charges for services and associated transactions requested using Your email address to access the TW Hub™;
- may monitor Your access and use of the TW Hub™. Telstra may, acting reasonably, limit Your access to or use of the TW Hub™ or to change Your access and usage rights at any time; and
- must comply with any instructions contained in the TW Hub™ or any reasonable instructions given by Telstra from time to time regarding the use of the TW Hub™.

4. What You must not do

You must not use the TW Hub™:

- for any unlawful purpose; or
- in any way that interferes with the proper functioning of the TW Hub™ or any other person's use of the TW Hub™; and
- you must not attempt any of the above acts or permit another person to do any of the above acts.

You must use Your best endeavours to ensure no viruses or similar computer programs are transmitted to Telstra's systems as a result of your access to the TW Hub™.

5. Third Party Content

There may be links in the TW Hub™ to third party websites that are not under Telstra's control. Third party products, services or information provided on or via the TW Hub™ may not be provided or endorsed by Telstra. Where it is apparent that products, services and information are not provided by Telstra, your legal relationship in respect of those products, services and information is with the third-party supplier.

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6. TW Hub™ Data

6.1. You:

- a. must ensure that each of Your users of the data obtained through TW Hub™, including outages data, (together, "**TW Hub Data**") complies with these Terms.
- b. may only access and use the TW Hub Data solely as required for Your own internal service assurance purposes (**Permitted Purpose**) and must not use the TW Hub Data for any other purposes without Telstra's prior written consent.
- c. must not permit any person to access and use the TW Hub Data for any purpose, other than as strictly necessary for the Permitted Purpose and only in compliance with these terms.

6.2. You do not have any rights to the TW Hub Data, except as expressly granted under these terms. Telstra owns all rights, title and interests (including intellectual property rights) in the TW Hub Data. You agree that the TW Hub Data is Telstra's confidential information.

6.3. You must ensure that:

- a. the TW Hub Data is kept confidential, safe, and secure from unauthorised access and use.
- b. you only use the TW Hub Data for active outages and otherwise for the Permitted Purpose.
- c. you must not use TW Hub Data for any outage events that are older than 14 days after the relevant outage was resolved.
- d. you may only use and display the TW Hub Data that is limited to a particular address, suburb or postcode as requested by your authorised user; and
- e. must not show, display, or otherwise use the TW Hub Data in connection with a representation or otherwise of Telstra's network, whether on a national, State, region or otherwise or in any manner that may detrimentally impact Telstra or its reputation.

6.4. You must comply with Telstra's reasonable directions with respect to all access and use of the TW Hub™ and TW Hub Data.

6.5. You will take reasonable steps to destroy all copies of the TW Hub Data on the earlier of the date you are no longer permitted to use such data under these terms or if you no longer require the information for the Permitted Purpose.

6.6. Telstra may, without notice and without any liability to you or any other person, immediately suspend or limit Your access to the TW Hub Data if, in Telstra's reasonable opinion, you are likely to, or are in, breach of these terms.

6.7. You acknowledge that, to the maximum extent permitted by law, the TW Hub Data is provided for informational purposes only, and may not be accurate, complete, fit for purpose or error-free. You are solely responsible for all use of the TW Hub Data, including any assessment of the reliability and validity of such TW Hub Data.

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7. Security and access

Telstra does not guarantee:

- the security of the TW Hub™, any systems (including the internet and Your hardware and software) used in accessing the TW Hub™, or any information passed through those systems; or
- that access to the TW Hub™ or any systems used in accessing the TW Hub™ will be continuous or virus or error free.

Telstra will use reasonable endeavours to provide notice of unplanned outages to the TW Hub™ as soon as reasonably practicable.

For security reasons Telstra may require You to re-authenticate Yourself from time to time, for example after a period of inactivity on the connection between the user's browser and Telstra's servers. Telstra is not responsible for any information You may lose if Telstra's servers terminate Your browser session on the TW Hub™.

8. Project scorecards and feedback

Notwithstanding any term of the Access Agreement You have with Telstra, You agree that Telstra can use, reproduce, reformat, publish, modify, adapt and transmit to others free of charge and without restriction the information provided by you to Telstra via the TW Hub™ (for example on project scorecards, surveys or feedback forms).

9. Variation of these terms

Telstra may change these Terms at any time. Changes will be provided to You by posting the changes on TW Hub™ or otherwise notifying You where the change is materially detrimental to You. Your continued use of TW Hub™ will be deemed acceptance of and agreement to those changes.

10. Withdrawal or changes to TW Hub™

Telstra may make changes to TW Hub™ at any time without notice, unless the change will have a material detrimental impact on You in which case, we will give you at least 20 Business Days' notice. Telstra may withdraw TW Hub™ on 20 Business Days notice. Business Days means any day other than Saturday, Sunday or a public holiday in both Melbourne and Sydney.

11. Support

Telstra will use its reasonable commercial efforts to provide online support for the TW Hub™ during working hours but does not guarantee any response or resolution times. Telstra may cease provision of its online support of the TW Hub™ at any time.

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You should report any loss of, or fault in, access to the TW Hub™ online support team. You must ensure that end users or Your customers do not use this online support.

12. Intellectual property

You acknowledge that you have no intellectual property rights in or to the TW Hub™ or any of the applications accessed via the TW Hub™; including any pre-existing, developed or created intellectual property that is owned by Telstra or its licensors.

13. Limitation of liability

To the extent permitted by law, neither Telstra nor any of its officers, employees, agents or related bodies corporate will be liable in any way (including for negligence) for any loss, damage, costs or expenses suffered by You or claims made against You through the use of TW Hub™ or any failure to provide TW Hub™ except where Telstra or its officers, employees, agents or related bodies corporate have caused or contributed to the loss, damage, costs or expenses as a result of their own negligence, fraud or wilful misconduct .

TW Hub™ is provided “as is” and to the extent permitted by law, Telstra does not make any warranties or representations about TW Hub™

Where Telstra breaches any representation, condition, warranty or guarantee implied or imposed by law that cannot lawfully be excluded but can be limited, Telstra's liability is limited to re-supplying TW Hub™ or any component of TW Hub™. Otherwise, nothing in these Terms is intended to exclude, restrict or limit the application of the consumer guarantees under the Australian Consumer Law. **Australian Consumer Law** means Schedule 2 to the Competition and Consumer Act 2010 (Cth).

14. Termination

Telstra may suspend, terminate or limit your access to the TW Hub™ if:

- in Telstra's reasonable opinion, you breach any of these Terms and it is reasonable for Telstra to suspend, terminate or limit your access as a result of that breach.
- Telstra has a right to terminate or suspend Your Access Agreement.
- Telstra suspects unauthorised use of the TW Hub™ has occurred or is likely to occur.
- in Telstra's reasonable opinion use of the TW Hub™ is jeopardising or likely to jeopardise the security or integrity of a Telstra system, is unreasonable, or affects the delivery or efficiency of the TW Hub™;
- Telstra undertakes maintenance, repair or development work on the TW Hub™;
- there is an emergency, and it is reasonable for Telstra to suspend, terminate or limit your access in response to that emergency; or
- Telstra is required by law to do so.

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Any withdrawal by Telstra of Your access to the TW Hub™ will not affect the validity or operation of any Access Agreement You have with Telstra, unless otherwise provided in that contract.

15. Governing law

These Terms are governed by the law in force in the State of New South Wales, Australia, and the parties irrevocably submit to the non-exclusive jurisdiction of the courts of New South Wales, Australia, and courts of appeal from them.

16. Quotes and prices provided by TW Hub™

Unless otherwise stated in TW Hub™, in the event of any inconsistency between information obtained using the TW Hub™ and information in the Access Agreement, the information in the Access Agreement prevails.

17. Robots

You must not use a robot with the TW Hub™ unless Telstra has given prior consent.

18. Specific terms of use

Telstra may include other terms of use for a specific application within TW Hub™, and will notify You of those terms, and by using that specific application, you agree to be bound by those specific terms of use.

18.1 TW Hub Diagnostic Tool

When using the TW Hub Diagnostic Tool, you agree and acknowledge that the information provided by this tool contains confidential information of Telstra and NBN Co (Telstra's and NBN Co's information individually and together the **Information**).

You must keep the Information confidential and not disclose it to any third party, including your end users and you may only use the Information for fault diagnosis purposes.

You agree and acknowledge that use of this tool for NBN tests is subject to Telstra's legal obligations to NBN Co, including its obligation to stop or limit the volume of requests and transactions in certain circumstances.

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Subject to any non-excludable rights at law (including under the Australian Consumer Law) Telstra does not represent or warrant that the Information is complete, fit for purpose or error-free, and by using or relying upon the Information, you do so on the basis that Telstra does not accept responsibility or liability for any errors, faults, defects or omissions in the Information supplied except to the extent that the liability is fairly and reasonably considered to arise due to Telstra's negligence, fraud or wilful misconduct.

18.1.1 FTTB/N speed disclaimer

(Testing: Line Status, Line Quality Diagnostic, Single-Ended Line Test)

Subject to any non-excludable rights at law (including under the Australian Consumer Law) Telstra does not represent or warrant that the information contained in the results to be accurate, complete, fit for purpose or error-free, and any person using or relying upon such information does so on the basis that Telstra accepts no responsibility or liability for any errors, faults, defects or omissions in the information supplied except to the extent that the liability is fairly and reasonably considered to arise due to Telstra's negligence, fraud or wilful misconduct.

Results do not contain measurements of the Line Rate or Information Rate at the NBN Co Network Boundaries, nor does it reflect the speeds which may actually be experienced by a Customer / End Users.

The attainable bitrate, attainable net data rate, and attainable expected data throughput referenced in these results are theoretical maximum upstream or downstream layer 1 characteristics, that may be attained using VDSL2 technology, based on a set of measured line characteristics and unmeasured operating assumptions including the copper line attenuation and signal-to-noise ratio over all the signal frequencies, at the point in time the same actual characteristics are measured at the Node or UNI. An NBN Co Ordered Product may not be capable of achieving the theoretical maximum attainable characteristics.

The actual bitrate, actual net data rate, and actual expected data throughput referenced in a test result may not reflect the actual layer 1 characteristics that will be achieved at the NBN Co Node or UNI at any particular time during a 24-hour period.

Any results must not be used as a basis for any representation to a third party as indicating the layer 1 sync rate, layer 2 Line Rate or Information Rate or any other upstream or downstream data transfer rate or capacity that might actually be experienced at the UNI used to serve a Premises.