

**Terms and Conditions:**  
**HELLO MOBILE pre-paid mobile services**  
**Standard Form of Agreement**

In accordance with the *Telecommunications Act 1997* (Cth), Hello Mobile may enter into

a contract with its customers by means of this Standard Form of Agreement (“**Agreement**”). This Agreement contains the terms and conditions on which Hello Mobile will be providing its Services to the Customer. The Agreement shall remain valid

and enforceable until its expiry or it is terminated in accordance with the terms and conditions contained in this Agreement. Use of the Services will be deemed, as of Activation by the Customer, to be on the terms and conditions set forth in this Agreement. The Agreement shall apply equally to all Services provided by Hello Mobile, whether for a fee or free of charge. A current version of the Agreement shall be

made available from time to time at Hello Mobile’s website:

[www.hellomobile.com.au](http://www.hellomobile.com.au)

**Terms and Conditions**

**1. Hello Mobile Standard Form of Agreement**

1.1 **HELLO MOBILE ACN 073 079 268** (“**Hello Mobile**”) will provide the Customer with the Services in accordance with the terms and conditions of this Agreement, in conjunction with the Standard Rate Table (Appendix 1) and any other clause or document that has been validly incorporated by reference.

1.2 The Agreement becomes effective upon purchase, receipt, and Activation of a Hello Mobile pre-paid product

1.3 From time to time Hello Mobile may, to the extent permissible by law, vary its Services or its charges without prior notice to the Customer. Hello Mobile may also vary its Services or its charges on giving reasonable notice. However, as much as practicable, Hello Mobile will endeavor to give reasonable notice whenever a material change has been made to this Agreement. The Agreement, as varied or amended from time to time, shall be made available at Hello Mobile’s website: [www.hellomobile.com.au](http://www.hellomobile.com.au)

1.4 Defined terms are set forth in clause 22.

**2. Services**

**2.1 Services Description**

2.1.1 Subject to this Agreement, the Services allows the Customer to:

- a) make voice calls from and receive voice calls to the Customer’s mobile phone
- b) send and receive data content on the Customer’s mobile phone; and
- c) use other such services as may be made available by Hello Mobile and depending on the Customer’s handset

2.1.2 Subject to this Agreement, the Services can be used from within Australia to make voice calls from the Customer’s mobile phone to:

- a) other mobile phones connected to any other mobile telecommunications network within Australia;
- b) any fixed line phone connected to any fixed line telecommunications network within Australia;
- c) international telephone numbers, whether mobile or fixed;
- d) 13, 1300, 1800 numbers and certain other Australian telephone numbers;

e) Other such numbers listed in the Standard Rate Table Appendix 1.

2.1.3 The Services may also be used to access other services, including, but not limited to, SMS and MMS services.

2.1.4 The following are some RESTRICTIONS on the use of the Services:

a) the Services do not support faxing or paging services; and

b) international roaming services are not available. Hello Mobile SIM cards will not function in other countries other than Australia

2.1.5 The Services may not be used to call or text:

a) premium rate numbers;

b) international destinations using 0015 and 0019 numbers; and

c) other such special numbers as designated by Hello Mobile which may be disclosed on the Hello Mobile website.

## **2.2 Who renders or supplies Services**

2.2.1 Services are rendered in the following manner:

a) Hello Mobile supplies the Services to the Customer; and

b) Vodafone supplies the Services to Hello Mobile and Hello Mobile, in turn, resupplies such Services to the Customer.

2.2.2 Hello Mobile may change its Supplier used in supplying the Services, its products and/or charges. In such an event Hello Mobile will provide the Customers affected with reasonable notice where these charges have a detrimental effect on the Customer.

2.2.3 The Customer acknowledges and agrees that from time to time a Supplier's (including without limitation Vodafone) Mobile Digital Network or any other technology, software or equipment that is used to provide a Service may be modified, changed, upgraded or enhanced.

2.2.4 Hello Mobile services are for personal use only, in Australia only, and are not available to commercial customers or re-sale or re-route purpose and available to approved customers only.

## **2.3 Provision of Services (Validity)**

2.3.1 "Initial Period" – The Services provided under this agreement shall remain in force for a period depending on the Customer's Plan which will be counted following the Customer's last recharge provided that the Customer has sufficient Call Credit. During the Initial Period, no restrictions will apply to the Customer's use of the Services, except as provided herein. When the Customer recharges upon registration, the SIM card status will fall within this period. It is upon the first recharge when the SIM card is considered registered.

2.3.2 Where the Customer Recharges the Services by purchasing more Call Credits during the Initial Period, the Initial Period will restart and the Services will be continuously supplied to the Customer for another period depending on the Customer's Plan. In addition, the Customer shall retain any unused Call Credits pertaining to the relevant Services.

2.3.3 "Grace Period"—Is the 30 day period after the end of the Initial Period for all Plans except for the "New Bonus plan" (signed up from 7 Dec 2010) which has 1 day period and "Supa plan" which has a 10 days period. No restrictions will apply, except as provided in this agreement. If the Customer Recharges during the Grace Period, any unused Call Credits Pertaining to the relevant Services will remain with the Customer. Furthermore, when a Customer Recharges during the Grace Period, it automatically terminates the Grace Period and the Initial Period will once again start.

However, if the Customer fails to recharge during the Grace Period, the Customer shall forfeit any remaining Call Credits. If a Customer makes an outgoing call during this period, a voice prompt will inform the Customer that their services are in the Grace Period.

2.3.4 “Dormant Period” – Where the Customer does not Recharge during the Initial Period and the Grace Period, the next 15 days for all Plans except for the “New Bonus plan” (signed up from 7 Dec 2010) which has 44 days and “Supa plan” which has 10 days after the end of the Grace Period is known as the Dormant Period.

Customers at this time are only able to receive voice calls. Other Services such as making or sending calls, SMS and MMS are not available. However, Customers are able to make Emergency calls. During the Dormant Period, the Customer can Recharge after which the Dormant Period will terminate and the Initial Period will restart again. The Customer will forfeit any unused Call Credits at this time. If the Customer attempts to make an out going call during this time, a voice prompt will inform the Customer to Recharge as soon as possible.

2.3.5 “Suspended Period” – In cases where the Customer does not Recharge during the Initial Period, Grace Period or Dormant Period, Services such as receiving, making or sending calls, SMS and MMS are not available. The Suspended period lasts for a period of fifteen (15) days except for “Supa plan” which has 10 days period. When a Customer Recharges during the Suspended Period, the Suspended Period will terminate and the Initial Period will commence again. If the Customer attempts to make an out going call during this time, a voice prompt will inform the Customer to Recharge as soon as possible. If the Customer does not recharge upon registration, the SIM card status will fall within this period.

2.3.6 “Terminated Period”-- If the Customer fails to Recharge before the end of the Suspended Period, the Services will be terminated at the end of the Suspended Period. The Customer will also lose their designated SIM Phone Number (Phone Number) which can no longer be recovered.

2.3.7 To use the Services such as making outgoing calls as outlined above, Hello Mobile requires that the Call Credit be sufficient to cover the charges for the type of call service the Customer is attempting to use or make. If the Call Credit is insufficient, such services are inaccessible. To use Hello Mobile service, including free services, it is required to have positive call credit (Except 000 emergency calls).

2.3.8 Hello Mobile will not connect a Customer’s call if the Call Credit is insufficient to meet the minimum charges applicable for the type of Service the Customer is trying to make.

2.3.9 Hello Mobile may terminate a call without notice if the Customer’s Call Credits fall below \$0 at any time. As such, the call will be terminated without warning.

2.3.10 Call Credits need to be topped-up by Recharging the account when the Customer does not have the minimum Call Credits to avail of a Service.

2.3.11 You may change plans to other available Hello mobile plans by calling customer service however, the remaining call credit will be forfeited.

2.3.12 Call Credits which are topped-up on a Customers account need to be activated. This may be done by the following means:

- a) By purchasing a scratchy recharge pin card from any Hello Mobile dealer or merchant, and following the instructions on the card; or
- b) visiting our website at [www.hellomobile.com.au](http://www.hellomobile.com.au) and entering the Customer’s recharge Voucher PIN; or

c) visiting our website at [www.hellomobile.com.au](http://www.hellomobile.com.au) and using the Customer's Credit Card.

NB: Call Credits are not redeemable for cash. Hello Mobile also reserves the right to protect itself from Credit Card fraud by implementing a maximum daily recharge allowance as well as a maximum monthly allowance. A more detailed stipulation can be found in Annex 2. (Fraud Policy)

## **2.4 Additional Services offered by Hello Mobile**

### **2.4.1 Voicemail**

a) When an incoming voice call is not answered or when received when the product is busy, turned off, or out of coverage, the call will automatically be diverted to the Hello Mobile voicemail services, if activated.

b) a Customer may only leave a maximum of 20 voicemail messages in any 7 day period. Each voicemail message can have a maximum of two minutes each. Hello Mobile does not guarantee the confidentiality of the voicemail messages. The customer must not, nor allow others to record any abusive, obscene or offensive messages.

### **2.4.2 SMS**

a) A standard text message has a maximum of 160 characters. However, some mobile phones permit the user to send longer messages. In such an instance, the message will be divided by the number of text messages required to send the entire message. Each part of the message will be charged at the standard rate applicable.

b) Receiving SMS or text messages from another mobile phone is free, provided the same is received within Australia. Additional charges may apply to sending SMS or text messages to a mobile phone not within Australia, long text messages, as well as SMS or text messages which are reverse charged. The latter are NOT included in the standard rates for SMS.

c) The cost of sending an SMS or text message is deducted from the Customer's Call Credits shortly after it has been sent. Hello Mobile makes no guarantee that the message will be sent.

d) SMS cannot be sent to premium rate numbers.

e) SMS will be restricted once a Customer's Call Credits fall below 30 cents.

### **2.4.3 MMS**

a) Using Hello Mobile MMS, the Customer can send long text messages, picture messages as well as video messages. These services are limited to the Customer's mobile phone capabilities.

b) If a message contains multiple media items, the Customer shall be charged for the most expensive item in the message. For instance, for a message containing both a picture and a video clip, the Customer will be charged at the rate applicable for video messages.

c) Messages sent while abroad, premium rates and reverse charged messages are NOT included in the standard rate table. As such, additional fees and charges may apply.

NB: Not all mobile phones have the capability of sending and receiving MMS messages.

d) MMS cannot be sent to premium rate numbers.

2.4.4 The Customer may request for additional services such as, but not limited to, GPRS provided that such services are compatible with both the SIM card and the mobile phone unit. Ideally, the request for additional services should be made upon registration of the SIM card or Services. However, access to Data will be restricted

when the Customer's Call Credits fall below \$1.

2.4.5 To the extent any GPRS Network or 3G Network is made available to the Customer by Hello Mobile, the Customer agrees to the following further terms and conditions in respect of its use of the same:

- a) The Customer is responsible for all equipment and software necessary to use the GPRS or 3G Network as well as for the security and integrity of any information the Customer transmits or receives; and
- b) The Customer acknowledges that neither Hello Mobile nor its Suppliers (including without limitation Vodafone) check or are obligated to monitor the content of information or material available from the GPRS or 3G Network or the internet, and that neither Hello Mobile nor its Suppliers (including without limitation Vodafone) are liable for Loss suffered by the Customer or any other person as a result of using information or material obtained using the GPRS or the 3G Network on the internet, including, but not limited to, Loss caused by a virus.

**NB:** Not all mobile phones can be configurable to send and receive data services. Hello Mobile reserves the right to deny access to customers whose handsets do not meet the specifications required by Hello Mobile to activate data services.

## **2.5 Accessing the Service**

2.5.1 To access the Service, the Customer will need to apply for and obtain a Hello Mobile Starter Pack, OR a SIM pack which does not include a mobile phone.

2.5.2 The Customer must agree that Hello Mobile will subject the information given by the Customer to a standard verification check.

2.5.3 If the Starter Pack or SIM Pack is purchased through the Hello Mobile website and was accepted, the products will be delivered to the delivery address nominated by the Customer.

2.5.4 Once the Customer has received the SIM Pack or Starter Pack, it needs to be registered and optional Service features may also then be activated.

2.5.5 The Customer may only Port their existing Phone Number when they first activate the SIM card via the Hello Mobile Website. This may also be done by calling the Hello Mobile Customer Service Hotline

2.5.6 The SIM card, once activated, is ready for use.

2.5.7 The Customer must Recharge in the means and methods provided in clause 2.3.11.

## **2.6 Obligations of the Customer**

2.6.1 The Customer hereby agrees to:

- a) comply with all Laws, all directions of a regulator and reasonable directions of Hello Mobile, and in relation to any investigations of any offenses, real or potential.
- b) provide Hello Mobile with all information and cooperation that Hello Mobile may require to provide the Services the Customer.
- c) comply with the terms of any legislation, standard, or code issued by any relevant authority or industry body; and
- d) comply with all the terms and conditions embodied in this agreement as well as any other contractual provision set forth by Hello Mobile.

2.6.2 The Customer must not use, attempt to use or permit the use of the Services:

- a) in violation of any applicable Law or to infringe another person's rights;
- b) to expose Hello Mobile and/or its Suppliers (including without limitation Vodafone) to any liability;
- c) in any manner which would damage, interfere or interrupt the Services or the

use of the Services by other customers of Hello Mobile or of Suppliers (including without limitation Vodafone), or interferes with any telecommunications network, equipment, or infrastructure controlled by a supplier to provide the Services;

d) in any manner that is indecent, obscene or otherwise offensive, menacing, threatening or abusive;

e) for any improper, indecent, immoral, obscene or unlawful purpose that may cause injury, offence or annoyance to any person or property, or to send unsolicited commercial messages to any person;

f) in any manner that is defamatory or tortious or infringes the rights of any third party;

g) to gain or permit or allow, whether actively or inactively to permit any third party to attempt to gain unauthorized access to the Services or the internet.

h) to commercially exploit the Services to the detriment of Hello Mobile or any other third party. This includes reselling the Services.

i) to be resold or resupplied to any person.

2.6.3 Hello Mobile may ask the Customer to stop doing something, which in the reasonable opinion of Hello Mobile is contrary to the obligations the customer has agreed to undertake. The Customer must immediately comply with such a request. In the event of non-compliance, Hello Mobile may take all reasonable steps available under the Law to ensure compliance, including suspending or disconnecting the Customer's Service.

2.6.4 The Customer acknowledges that Hello Mobile may be required by law or by competent authority to intercept communications over the Service and may also monitor a particular Customer's use of the Service.

2.6.5 Usage of the Services and the Hello Mobile SIM card is limited to fair and reasonable usage. The Services provided as well as the Standard Rate Table assume fair usage of the Services by the Customer. In the event of non-compliance, Hello Mobile reserves the right to demand that the Customer varies the use of the Services, and review the rates and tariffs applied to the Customer's account, or to suspend or terminate the Services. In such a case, the termination will be deemed to have been made by the Customer.

2.6.6 The Customer is wholly responsible for the security and use of the mobile phone and SIM card.

2.6.7 The Customer must notify Hello Mobile in writing immediately it becomes aware of any resupply of any of the Services by any person.

### **3 Suspension and Disconnection**

#### **3.1 Suspension or Disconnection from the Services**

3.1.1 In addition to Hello Mobile's rights under the provisions of this Agreement, Hello Mobile reserves the right to suspend or disconnect the Services without liability or notice in whole or in part at any time where:

a) Hello Mobile is required to do so by law;

b) a relevant agency or competent authority such as the ACMA directs Hello Mobile to do so or if Hello Mobile or any of its Suppliers (including without limitation Vodafone) is required to do so by reason of a Regulatory Event occurring;

c) if the Customer fails to comply with one or more of the terms and conditions of this Agreement or if any of the Services are used by the Customer in breach of any terms of this Agreement;

- d) there is a technical failure, modification, upgrading, and maintenance of the Network or other valid reason. Hello Mobile undertakes to make all reasonable efforts to minimize disruptions in the Service and will make the Services available as soon as practicable;
- e) in Hello Mobile's opinion it is likely that an act or omission of the Customer will impair or have an adverse effect on the operations or the quality of any of the Services (or part of the Service(s)) or of the Network;
- f) Hello Mobile has reason to believe that the Customer has used the Services for or in relation to unauthorized, criminal, fraudulent or unlawful activities or endeavors or misused;
- g) the Customer has informed Hello Mobile that they have lost or damaged the SIM card;
- h) Emergency circumstances apply, including for the provision of support to emergency and other related services;
- i) When Hello Mobile suspects on reasonable grounds that the record of information relating to the Customer contains false or incorrect information; or
- j) the Customer does not provide Hello Mobile with the information required under the terms of this Agreement;
- k) Hello Mobile is entitled to terminate this Agreement; or
- (l) the availability of the Services is limited by the Supplier(s) (including without limitation Vodafone)

3.1.2 Hello Mobile may, in its discretion, investigate any complaint made, whether by or against the Customer and hereby reserves the right to suspend the Services if a complaint has been lodged against the Customer concerned pending the results of the investigation.

3.1.3 A Customer whose Service has been suspended will not be able to use any of the Services including making and receiving voice calls, SMS or MMS.

3.1.4 Hello Mobile's right to suspend the Services under clause 3.1.1(k) is in addition and without prejudice to its rights to terminate this Agreement under clause 4 or otherwise for the Customer's default.

### **3.2 Permanent Disconnection from the Services**

3.2.1 Hello Mobile reserves the right to permanently disconnect Services where:

- a) the Agreement has been terminated by reason of not Recharging for a period of fifteen (15) days from the onset of the "Suspended Period".
- b) the facilities and/or network of Hello Mobile are in anyway compromised.
- c) The customer fails to use the Service according to the Customer's obligations under 2.6;
- d) the Customer does anything which Hello Mobile reasonably believes may damage the Network;
- e) a regulator or competent authority requires Hello Mobile to do so;
- f) when the Customer has not done what the Customer had undertaken, even after demands made by Hello Mobile for the Customer to comply;
- g) Hello Mobile has reason to believe that the Customer has used, or will use the Services to commit any unauthorized, criminal or unlawful endeavors;
- h) Hello Mobile has an incomplete record of information about the Customer or the Customer fails to promptly provide the relevant information or details upon Hello Mobile's request;
- i) it is reasonably necessary to enforce the Laws of Australia including its criminal laws, laws imposing pecuniary penalties, laws protecting the public

revenue or laws safeguarding national security;

j) a law enforcement agency requests Hello Mobile to disconnect the Customer concerned because it has reasonable grounds to believe that the Customer has used, or is likely to use the Services to engage in criminal conduct;

k) Hello Mobile believes on reasonable grounds that the use of the Customer's mobile phone or equipment infringes Intellectual Property Rights of a third party.

3.2.2 When disconnected from the Network:

a) The Customer loses all rights to use the Phone Number and Hello Mobile will be unable to return or otherwise reassign the Phone Number to the Customer.

b) The Customer must immediately return the SIM card to Hello Mobile; and

c) This agreement will automatically terminate in which was the Customer forfeits any remaining Call Credits.

3.2.3 Hello Mobile reserves the right to charge the Customer the SIM card replacement fee for SIM cards not returned within seven (7) days from the date of cancellation.

3.2.4 Hello Mobile may, in its sound business discretion, cancel the Services by 30 days' notice by publication in at least one major daily newspaper in each capital city in Australia.

#### **4 Termination of the Agreement**

4.1 Either the Customer or Hello Mobile may terminate this agreement by giving a written notice 30 days prior to the intended termination date. Subject to an administrative fee, Hello Mobile may give a refund of any remaining Call Credits where it is Hello Mobile that terminates the agreement. In such a case, the Customer must request the refund in writing within the notice period addressed to Hello Mobile at Level 10, Tower B 821 Pacific Highway, Chatswood NSW 2067. No refund will be available for any Call Credits where the Customer has breached this agreement or in any instance where the Customer terminates this agreement.

4.2 Hello Mobile shall be entitled to terminate this Agreement immediately where the Customer is in breach of the obligations of the Customer under this Agreement or in the event of Hello Mobile being unable to provide the Services or where the Customer is suspected of involvement in fraud and/or gross negligence and insolvency of the Customer.

4.3 Where the Customer does not Recharge for a continuous period of fifteen (15) days following the "Suspended Period", this Agreement shall be automatically terminated and will be deemed terminated by the Customer.

4.4 If the Customer is a natural person, in the event of death, Hello Mobile reserves the right to terminate this agreement without notice as soon as Hello Mobile becomes aware of such death. The Customer's estate must pay all outstanding charges under this agreement

4.5 The termination of this agreement is without prejudice to the rights and obligations of the parties which have accrued prior to the termination of the agreement.

4.6 The right to immediately terminate this agreement for due cause remains reserved with Hello Mobile.

4.7 All clauses which are expressly or by implication intended to survive termination will continue to apply after termination including without limitation clauses 4, 12, 14, 17, 18 and 19.

#### **5 Network Information**

## **5.1 Quality of Service**

5.1.1 The Services are not available in all areas of Australia. The quality and the availability of the Services are subject to the availability of the Services from its Suppliers (including without limitation Vodafone) and certain limitations such as (without limitation) the proximity of base stations, and factors beyond Hello Mobile's control. Some of the factors mentioned include geographic and atmospheric conditions, as well as the capabilities of the mobile phone in connection with the Services.

5.1.2 The Services might also be adversely affected by other factors such as (without limitation):

- a) The Customer's level of use
- b) the volume of customers trying to use the network simultaneously;
- c) adverse weather conditions; and
- d) the Customer's location with respect to objects or conditions which may cause interference with the network such as atmospheric conditions and buildings and tunnels.

5.1.3 Hello Mobile does not make any guarantees that the Services will be available in each place within a given area, or that interferences that cause "drop-outs" will not occur in the course of a voice call or that the Service is free of faults or error. Likewise, Hello Mobile does not guarantee that all traffic can or will be transmitted by the Network or that there will be absolute protection of its Network that would make it impermeable to unauthorized interception or access.

5.1.4 The Customer acknowledges that it is the Customer who is responsible for inquiring as to whether the Network coverage is available in areas in which the Customer ordinarily requires the Service prior to the purchase of and activation of the Service.

5.1.5 The Customer acknowledges that the Services may not be available from time to time including as a result of capacity constraints, network failure, maintenance, call drop out, call set up failure, call handover failure, electromagnetic interference, adverse weather conditions, equipment or software failure, or the location of the Customer or as a result of factors beyond Hello Mobile's control, including (without limitation) the factors mentioned above.

5.1.6 Hello Mobile does not warrant that the Services shall be free from blockages, delays, Network failure, congestion, interferences or faults of any kind. Hello Mobile and its Suppliers (including without limitation Vodafone) shall in no way be liable or responsible to the Customer or any other person for any temporary unavailability or interruption of any Service or for any loss or damage that might result from the Service unavailability or interruptions.

## **5.2 Fault Reporting and Rectification**

5.2.1 As soon as the Customer becomes aware of any fault in the Services, the Customer must report that fault to Hello Mobile by calling the Customer Service Hotline or emailing Hello Mobile at [support@hellomobile.com.au](mailto:support@hellomobile.com.au). Prior to making any reports to Hello Mobile, the Customer must undertake all steps to ensure that the fault was not a fault of the Customer's mobile phone unit or equipment, or that the Service was not used improperly.

5.2.2 The Customer must provide all necessary assistance to enable the speedy location and rectification of any fault regardless of whether the fault is the responsibility of Hello Mobile or another Service provider.

5.2.3 Hello Mobile is not responsible for any fault that is in the equipment within the

Network and undertakes to notify the Supplier of the fault and request its verification and subsequent rectification.

## **6 Mobile Phones**

### **6.1 Mobile Phones**

6.1.1 Hello Mobile may offer for sale mobile phones to be used in connection with the Services provided.

6.1.2 The Customer is responsible for the maintenance of the mobile phone. If the Customer's phone appears to be faulty or interferes with the Services, if requested by Hello Mobile, the Customer agrees to:

- a) provide the mobile phone to Hello Mobile to be inspected; and/or
- b) cease using the mobile phone until such problem has been rectified.

6.1.3 Hello Mobile assumes no liability to the Customer in relation to the Customer's mobile phone or the Customer's use of the mobile phone in connection with the Services.

6.1.4 If the customer supplies their own mobile phone, the Customer acknowledges that Hello Mobile makes no warranty as to the suitability of such a mobile phone for use in connection with the Services provided.

6.1.5 If the Customer supplies his own mobile phone, Hello Mobile at anytime, may request the Customer to provide proof of ownership of the mobile phone in the interest of protecting consumers from fraudulent or illegal trade. The Customer must, within a period of five (5) business days from Hello Mobile's initial request. If the Customer fails to provide such proof, Hello Mobile is hereby authorized to suspend the service of the Customer concerned.

### **6.2 Equipment Delivery and Returns**

6.2.1 If the Customer has purchased a Hello Mobile phone, it may be returned at the Customer's own account to the same point of purchase within fourteen (14) days of receipt in order to receive a full refund of the amount the Customer has paid in the same manner in which the Customer has paid.

6.2.2 A full refund will only be available if the mobile phone purchased from Hello Mobile is returned undamaged, and is in good working condition, with all the original packaging, including accessories as well as the SIM card. All additional services, whether free or discounted products, vouchers, coupons or any other gift received as a result of purchasing the mobile phone must likewise be returned. Hello Mobile reserves its right to reject returns if the above conditions have not been complied with.

6.2.3 The Customer is responsible for the SIM card, mobile phone and other goods until they have been received by Hello Mobile. Hello Mobile will not, under any circumstance be held responsible or liable for the loss or damage of any SIM card, mobile phone, or other accessory in the course of postage.

6.2.4 If the Customer's Hello mobile phone, SIM card or accessories develop a fault or need repair as a result of them being defective within six (6) months of the original purchase date, the Customer is directed to contact the Hello Mobile Customer Service Hotline who will then help arrange for the mobile phone, SIM card, or accessory to be repaired or replaced under the manufacturer's warranty.

6.2.5 If the manufacturer's warranty, as provided in the warranty clause has an extended warranty of a period longer than six (6) months, it is incumbent on the Customer to contact the manufacturer directly under the terms of the said warranty.

6.2.6 Hello Mobile reserves the right to repair the Customer's mobile phone or

accessories OR to replace them with a new or reconditioned mobile phone or accessories of the same manufacturer with the same model. In certain cases, where the model has been discontinued or Hello Mobile is unable to source the model, Hello Mobile is authorized to replace the mobile phone or accessory with substantially the same features and functionality. The repair or replacement of a product normally takes place between 14 and 28 days although there are certain instances where it may take longer.

6.2.7 All products returned by Hello Mobile to the Customer will be subject to a per unit delivery charge as per the Standard Rate Table. Hello Mobile also reserves its right to charge an administration fee for item that are returned as faulty or damaged under the warranty that prove not to be faulty or damaged.

6.2.8 In cases wherein the mobile phone or other products are bought online, a refund will only be available if the unused mobile phone and other products are returned to Hello Mobile within a period of seven (7) business days from the time of delivery at the Customer's cost. The unused phone and other goods must be returned in its original packaging. No refund will be given in the following instances:

- a) when the mobile phone or other products are not returned within the time specified;
- b) the mobile phone and/or the other products have been used; or
- c) when Hello Mobile does not receive all the accessories that was sent to the Customer.

6.2.9 When a Customer orders a Starter Pack, it is recommended that the Customer nominates a business address or an Australian post office.

6.2.10 Hello Mobile will not be able to deliver packages to universities, hospitals, colleges, building sites or other similar areas.

6.2.11 Prior to signing for the delivery, the Customer must show proof of identity when the parcel arrives by courier.

6.2.12 Where the Customer orders the goods or product from Hello Mobile; the Customer may cancel the order at any time before receiving delivery. Once delivery has been effected, it cannot be returned.

6.2.13 After Hello Mobile has taken the Customer's order, neither the nominated person accepting delivery nor the delivery address can be changed. This clause is subject to Hello Mobile's sound business discretion in certain meritorious cases.

6.2.14 In the event of delivery failure, Hello Mobile shall undertake to reorder and resend the goods to the Customer. This process will require a further three (3) to five (5) working days to reach the Customer. Hello Mobile reserves the right to require the Customer to complete a declaration of loss form or sign a statutory declaration where a delivery failure is contested.

6.2.15 Hello Mobile courier will deliver the order to the delivery address nominated by the Customer. Only the nominated person named can accept delivery of the products. Proof of identification will be required to accept delivery.

## **7 SIM Cards**

7.1 The SIM card remains and will continue to remain the property of Hello Mobile at all times unless it is assigned, distributed, sold or otherwise encumbered by Hello Mobile to distributors and/or retailers of Hello Mobile's Services. The Customer must take all reasonable care to keep the SIM card safe and in good working condition and must notify Hello Mobile if it is lost, stolen or damaged.

7.2 The customer will be liable for the charges incurred through the use of the Service supplied in relation to the Customer's SIM card. This includes the charges

incurred through the use of the Services where the Customer's SIM card has been lost or stolen prior to Hello Mobile being notified of such loss or theft.

7.3 The Customer must return the SIM card within a reasonable time when requested by Hello Mobile. As such, the Customer may be charged a replacement fee if the broken SIM card is not returned within a reasonable amount of time when requested by Hello Mobile.

7.4 A SIM card replacement fee is applicable where the Customer has lost or damaged the SIM card at the rate shown in the Standard Rate Table.

7.5 Hello Mobile will replace a faulty SIM card free of charge. Simply return the faulty SIM card to: Level 10, Tower B 821 Pacific Highway, Chatswood NSW 2067.

7.6 SIM cards may be available for purchase from time to time on the Hello Mobile website. If the SIM card is available for purchase online and the Customer later decides that he/she does not want the Hello Mobile SIM card, the Customer must return it within seven (7) business days at the Customer's own account. The return policy only applies in cases wherein the SIM cards have not been used or in any way activated. The return policy operates in addition to any other rights with the Customer might have.

7.7 If a refund is in order, it will be credited to the card used for the original purchase after the products has been returned and has been validly inspected by Hello Mobile. The refund should take effect after a period of 30 days.

7.8 Hello Mobile has the right to refuse the provision of subsequent SIM cards to the same Customer once the Customer has applied for and received two (2) or more SIM cards. This provision is subject to Hello Mobile's discretion.

7.9 Hello Mobile is shall not, under any circumstance be liable for any SIM card or any other product that is lost in the course of posting the product. The Customer is advised to send returned goods by registered mail to: Level 10, Tower B 821 Pacific Highway, Chatswood NSW 2067.

#### **7.10 SIM Phone Number (Phone Number)**

7.10.1 If the Customer does not have a Phone Number for the mobile phone for use with the Services, Hello Mobile will automatically assign the Customer a Phone Number automatically with the SIM card. If the Customer does have an existing Phone Number, the Customer may port it from another Carrier or Carriage Service Provider.

7.10.2 All Phone Numbers are selected, issued and used by Hello Mobile in accordance with the ACMA's Numbering Plan and Telecommunications Numbering Plan Number Declarations as per the Numbering Regulations in place.

7.10.3 The Customer does not own the Phone Number assigned to the Customer. The right to use the Phone Number ceases once the Customer's access to the Services is cancelled for any reason unless the Customer ports the Phone Number to another Supplier or Carriage Service Provider.

7.10.4 Hello Mobile may be required by the Numbering Regulations to vary, withdraw, suspend or re-assign a Phone Number that has been assigned to the Customer.

7.10.5 Except as provided in the preceding clause, the Customer may be required to pay a fee for obtaining a new Phone Number. In such a case, the Customer will forfeit any and all Call Credits remaining in the existing Phone Number.

7.10.6 If a new Phone Number is needed because the Customer has received or has been receiving calls of a harassing nature and the Customer has reported the same to the local law enforcement agency, Hello Mobile may at its discretion issue a new

Phone Number free of charge on the first two occasions. Any change after the second change will be charged a fee as per the Standard Rate Table. In such a case, any and all Call Credits remaining on the existing or original Phone Number will be forfeited. 7.10.7 Hello Mobile will not be held liable or responsible for any expenses or losses incurred by the Customer as a result of:

- a) any variation of the Phone Number allotted under clause 7.10.1; or
- b) a cessation of the Customer's rights of use with respect to the Customer's Phone Number pursuant to changing from Hello Mobile as the supplier to another.

## **8 SIM Phone Number Portability**

### **8.1 Phone Number Porting from another Carriage Service Provider to Hello Mobile**

8.1.1 It is permissible that a Customer retains a previous Phone Number obtained from another supplier. In such a case, simply contact Hello Mobile.

8.1.2 If, in the course of providing the Services to the Customer, Hello Mobile needs to alter the Customer's arrangements with the previous Carriage Service Provider, this will be done in the manner enumerated in this provision.

8.1.3 If the Customer wishes to transfer an existing Phone Number to Hello Mobile, the Customer must notify Hello Mobile at the soonest possible time (ie when ordering a Starter Pack or SIM Pack or when the SIM card is activated).

8.1.4 The Porting of the Phone Number will be done in compliance with the Australian Communications Industry Forum industry code Mobile Number Portability ACIF C570:2005 known as "MNP Code". As such, Hello Mobile shall not be liable for any numbers that are ported without authorization or fraudulently as long as the details given comply with the MNP Code.

8.1.5 The Customer acknowledges and agrees to the following conditions when Porting a previous Phone Number:

- a) Once the Customer's previous Phone Number has been Ported, it is only the Phone Number that is transferred to Hello Mobile. None of the Services, Call Credits or features of the previous Carriage Service Provider will be transferred. Such Services will be provided by Hello Mobile upon the Customer's application, payment, and subsequent activation of the Services provided by Hello Mobile.
- b) The Customer may have an agreement still in force with the previous Carriage Service Provider, which requires the payment of cancellation and/or termination fees which may include early termination fees.
- c) There may also be outstanding contractual obligations and costs owed to the Customer's current or previous Supplier such as arrears with the previous Carriage Service Provider. The Customer shall remain responsible and liable for such amounts and obligations owed by the Customer's current or previous supplier.
- d) It is the Customer's responsibility to settle all accounts and charges imposed by the previous Carriage Service Provider with respect to unsuccessful or rejected Port requests as a result of:
  - 1) insufficient or incorrect information provided to Hello Mobile;
  - 2) concurrent competing Porting requests in relation to the Customer's Phone Number
  - 3) termination of the services by the previous Carriage Service Provider before Hello Mobile transfers the Customer's Phone Number on the nominated Port cut over date.
- e) The Customer's previous Carriage Service Provider may or may not disconnect

the existing mobile service as well as additional services may apply. Porting of the Phone Number may likely result in the termination of the Customer's account for those services.

f) Hello Mobile will endeavor to process the Customer's Port requests at the time requested by the Customer. Hello Mobile, However does not assume any liability nor guarantees that the Porting will take place on or before the requested cut over date. The requested cut over date should not be more than 30 days from the date of making the Porting request.

g) The Customer is responsible for ensuring that the mobile phone used is GSM compatible. If the Customer is Porting from another mobile platform, a new mobile phone may be needed that is GSM compatible.

h) The Customer is responsible for ensuring that the mobile phone used is not locked to the previous Carriage Services Provider's Network. It is imperative that the Customer undertakes to have the mobile phone unlocked or otherwise reprogrammed

before the Phone Number is Ported.

i) The Customer may also be held liable either to Hello Mobile or to the previous Carriage Service Provider for charges relating to the investigation or dispute resolution that may arise from Porting the Phone Number from the previous Carriage Service Provider to Hello Mobile. Hello Mobile also reserves the right to charge a service fee for Porting the Customer's Phone Number to Hello Mobile.

## **8.2 SIM Phone Number Porting from Hello Mobile**

8.2.1 A Customer may Port a Phone Number obtained from Hello Mobile to another Supplier or Carriage Service Provider.

8.2.2 Hello Mobile may charge the Customer a fee to Port the Phone Number to another Supplier or Carriage Service Provider.

8.2.3 If the Customer Ports the Phone Number to another Carriage Services Provider:

a) this Agreement will cease to be in force and the Services will terminate immediately.

b) the Customer remains responsible to Hello Mobile for amounts payable prior to the Port-out; and

c) the Customer forfeits any remaining Call Credits.

8.2.4 The Customer may only Port the Phone Number, additional services or features cannot be transferred.

8.2.5 the Customer may only Port a Phone Number of which the Customer is the Authorized or rightful user.

## **9 Lost or Stolen Phone and/or SIM cards**

9.1 If the Customer's SIM card and/or mobile phone is lost, stolen or damaged, Hello Mobile is under no obligation to give a refund for and Services that the Customer may have paid in advance or for the cost of the mobile phone and/or SIM card. The Customer is advised to contact customer service to facilitate the IMEI Blocking facility to prevent any unauthorized use of the mobile phone and/or SIM card.

9.2 The Hello Mobile IMEI Blocking facility allows the Customer to block the mobile phone from the network and on any other Australian GSM network.

9.3 Before any mobile phone's IMEI is blocked, Hello Mobile will require the Customer concerned to undergo an ID check. This will be done when a Customer has requested or applied for an IMEI Blocking.

9.4 If Hello Mobile blocks or unblocks a Customer's mobile phone, such will be communicated to other national Australian Carriers to put into effect on their respective networks.

9.5 If the Customer's mobile phone is found or returned, the Customer is advised to call customer service or email Hello Mobile at [support@hellomobile.com.au](mailto:support@hellomobile.com.au) to request for unblocking. Hello Mobile undertakes to accomplish this within a reasonable time.

9.6 If in the event of an emergency while a Customer's mobile phone is IMEI Blocked, the Customer may call 112 or 000 if within coverage of any mobile network. This ensures that the call gets through while the Customer waits for the unblocking request to be carried out.

9.7 If the Customer obtains a mobile phone that is lost or stolen, or otherwise obtains a mobile phone under false pretences, Hello Mobile reserves the right to block the mobile phone on the Network without the Customer's consent, even if the Customer was not aware of such a fact.

9.8 Hello Mobile is not responsible for any lost or stolen SIM cards. The Customer will be liable for the charges for all Services used by any other person.

9.9 If the Customer's SIM card is lost or stolen, the Customer is advised to call customer service or email Hello Mobile at [support@hellomobile.com.au](mailto:support@hellomobile.com.au) to request blocking of the SIM card. This will prevent the SIM card to be used in making unauthorized calls being made.

## **10 Billing, Fees and Charges**

### **10.1 Billing**

10.1.1 Hello Mobile will not send the Customer any bills, invoices or statement recording calls made from the Service.

### **10.2 Free Calls**

10.2.1 Calls made to emergency numbers such as 112 or 000 are toll free if called from the Customer's mobile phone while using the Services.

10.2.2 Calls made to the Customer Service Hotline 129 999 are fee if called from the Customer's Hello Mobile.

### **10.3 Service Rates and Charges**

10.3.1 Once the Customer's SIM card has been activated, the Customer will be charged for the use of the Service according to the rates and charges set forth in the Standard Rate Table. Hello Mobile may vary the rates and charges for the Service, including adding additional charges, from time to time, without notice to the Customer.

10.3.2 Where the change in the rates and charges for the Services can reasonably be expected to adversely affect the Customer, Hello Mobile will give the Customer reasonable notice either in writing or through notice on the Hello Mobile website within a reasonable time before the changes are made effective. The continued use of the service after the change of rates will be construed as an acceptance of the new rates and charges. Fees and charges for additional services may also be amended from time to time.

10.3.3 The Standard Rate Table specifies the following:

- a) charges for outgoing calls made on the Service. This includes local, national, mobile and international, as well as other call types;
- b) charges for additional services, including SMS, MMS, voicemail; and

c) charges for special services or numbers such as 13, 1300, 113, and 1800 services.

10.3.4 The up-to-date rates and charges are published in the Standard Rate Table. This can be found on the Hello Mobile Website.

10.3.5 When the Customer activates the SIM card on the Network, the amount of Call Credits purchased will immediately be available for use. At no time can such Call Credits be converted to cash nor can they be applied against any other Services with Hello Mobile.

10.3.6 The SIM card may contain an initial credit and/or promotional credit that is governed by the terms and conditions of that particular offer.

10.3.7 The Customer pre-pays for the Services by Recharging the account. The Customer may recharge in any of the means or methods outlined in the clause regarding Recharge.

10.3.8 The Customer's pre-payments for Recharge vouchers or additional Call Credits otherwise purchased are not repayable by Hello Mobile nor is interest payable on any credit the Customer might have with Hello Mobile. The Call Credits are reduced each time the Service is used by the Customer in accordance to the relevant rates and charges found in the Standard Rate Table.

10.3.9. The minimum call charge for an international call, national mobile and landline will be the rate for one minute plus flagfall.

10.3.10 The call charges for international calls, national mobile and landline calls are charged on a per minute basis and will be rounded up to the next whole minute. Hello Mobile reserves the right to change the charging block depending on the Customer's plan which may be modified by Hello Mobile from time to time without giving notice to the Customer. A copy of the Blocking will also be included in the Standard Rate Table.

10.3.11 In determining the time at which the call is made, the local time at the mobile switch centre will be the time used. This does not necessarily coincide with the local time at the location of the calling party.

10.3.12 The Customer will not be charged for unsuccessful calls.

10.3.13 In addition to the per minute charges, Hello Mobile will charge a flag fall or surcharge per successful connection. A copy of the surcharges will also be available in the Standard Rate Table, which can be modified by Hello Mobile from time to time without notice to the Customer.

10.3.14 The Charges payable for the Services in this Agreement are inclusive of GST, unless otherwise provided. Where it is stated that GST is exclusive, the Customer must pay an additional amount to any GST payable for the supply of the Services.

10.3.15 Hello Mobile's records determine how much the Customer's account is Recharged and the rate of use of the Services. Hello Mobile will only refund money where Hello Mobile has charged an incorrect amount.

10.3.16 Any Recharge voucher shall expire at the date stated or specified on the voucher. If none is stated, the absolute expiry shall expire 7 years from the date of production.

10.3.17 The Customer should be aware that the purchase of Recharge voucher or additional Call Credits through the internet or electronically is not always secure. Hello Mobile is not liable for any loss or damage resulting from the Customer's purchase of Recharge in the above-mentioned means.

10.3.18 Hello Mobile reserves the right to recover from a Customer's Call Credits, any amount owing to Hello Mobile by reason of arrears in accounts that have not been paid. Hello Mobile may charge the Customer interest daily on the unpaid

amount at the rate of % per annum above the 30 Day Average Bid Bank Bill Swap Reference Rate as published in the most recent Money & Bond Markets Section of the Australian Financial Review.

10.3.19 The Rates and Charges will largely depend on which particular plan the Customer is in. As such, it is the Customer's responsibility to check which plan applies to them as well as the corresponding rates and charges as provided in the Standard Rate Table.

## **11 Voice and SMS Bundles and Promotional Offers**

Please see the Hello Mobile Website [www.hellomobile.com.au](http://www.hellomobile.com.au) for the most up to date bundles and promotional offers (if any)

## **12 Privacy Issues**

### **12.1 Personal Information**

12.1.1 Hello Mobile may collect Personal Information about the Customer in compliance with relevant legislation.

12.1.2 The Customer acknowledges and agrees that:

a) Hello Mobile may collect a Customer's Personal Information from either the Customer personally or a credit provider or credit reporting agency subject to the requirements of Part IIIA of the Privacy Act. ACMA requires Hello Mobile to collect certain identifying information about the Customer before they can be connected to the Network. If Hello Mobile does not collect the Customer's personal information, Hello Mobile may not be able to provide the Services to the Customer concerned.

b) Hello Mobile may use the Customer Details of a Customer (including Personal information) in the following instances:

- (i) to provide the Services to the Customer, or to facilitate the same by other Carriage Service Providers, for purposes of investigation or resolution of disputes relating to any Services provided to the Customer;
- (ii) to provide information to the Customer about other goods or services, special offers or promotions which Hello Mobile may have from time to time;
- (iii) when authorized, permitted or mandated by law.

12.1.3 The Customer acknowledges and agrees that Hello Mobile may disclose Customer Details (including Personal Information) to:

a) other Carriage Service Providers or entities (including without limitation Vodafone) within or outside Australia from time to time as required by such entity or for the purpose of enabling Hello Mobile or where relevant, the other entities to provide the Services to the Customer. This also includes the investigation and resolution of disputes or complaints concerning the provision of the Services. Hello Mobile's Supplier(s) (including without limitation Vodafone) may use Customer Details (including Personal Information):

- (i) to the extent required in order to provide the Services in accordance with this Agreement;
- (ii) to the extent required to enable the Supplier(s) (including without limitation Vodafone) to comply with any Law;
- (iii) subject to Part 13 of the *Telecommunications Act 1997* (Cth), for the supply of Directory Assistance Services or Operator Services or electronic printed directory products (provided that the Supplier(s) (including without limitation Vodafone) does not use or disclose

traffic-related information);  
(iv) for the supply of calling number display services;  
(v) to the extent required for the provision of information required by the Integrated Public Number Database;  
(vi) to the extent required for the provision of information required by the operator of any other Mobile Digital Network for Directory Assistance Services, Operator Services and directory products or in relation to Emergency Call Services;  
(vii) for the purposes of or in connection with an Emergency;  
(viii) to calculate the aggregate number of customers connected to the Supplier's (including without limitation Vodafone) Mobile Digital Network and publicise or otherwise disclose that aggregate number;  
or  
(ix) if Vodafone agrees to acquire this Agreement in accordance with clause 18 of this Agreement.

b) Related Bodies Corporate, Hello Mobile's partners and associates such as telecommunication entities, providers of products or services which are related to the Services, distributors, outlets, media entities, event organizers, equipment suppliers so that they can provide information to the Customer for marketing purposes.

c) Government agencies, regulators, or individuals appointed or vested with authority to investigate, resolve disputes or complaints in connection with legal proceedings concerning the Customer's use of the Services, for the purpose of enabling investigation and resolution of those disputes or complaints;

d) other entities with whom Hello Mobile has established or will establish an affinity program to enable the Customer to participate therein;

e) other entities who provide services to Hello Mobile in relation to the provision of Services by Hello Mobile to the Customer such as SMS, resellers and their agents, as well as a mail house to enable them to provide those services to the Customer or administer payment arrangements in relation to the Services rendered;

f) as otherwise provided by law.

12.1.4 Hello Mobile will provide the Customer access to their Personal Information. A Customer may alter their Personal Information by contacting Hello Mobile through Customer Service or by e-mailing Hello Mobile at [support@hellomobile.com.au](mailto:support@hellomobile.com.au).

12.1.5 Calling Line Identification is automatically activated upon the initiation of the Services. If the Customer does not wish the number to be displayed, it is the Customer who has to deactivate this service.

12.1.6 If the Customer wishes to make payments through a credit card, Hello Mobile reserves the right to store such credit card details in accordance with relevant legislation.

12.1.7 For the avoidance of doubt the Customer consents to:

a) Hello Mobile disclosing to a third party, including Vodafone (or its Related Bodies Corporate), the Customer Details of the Customer in order to facilitate the supply of Services to the Customer by Hello Mobile or when required or permitted by law; and

b) that third party using that information in order to facilitate the supply of services to the Customer by Hello Mobile or by that third party.

12.2 Identification

12.2.1 The Customer acknowledges that Hello Mobile and other suppliers of pre-paid

GSM are required by a number of telecommunication and privacy legislation to ask customers evidence or proof of their identity. As such, Hello Mobile is authorized to:

- a) refuse to supply the Customer concerned with the Services if the required evidence is not produced;

- b) require the Customer to produce additional proof of identity including details such as, but not limited to, the Customer's name and address.

12.2.2 The Customer must inform Hello Mobile of any change of status or residential address within a period of fourteen (14) days from the time the change has become effective by calling Customer Service or e-mailing Hello Mobile at [support@hellomobile.com.au](mailto:support@hellomobile.com.au)

### **13 Customer Service**

13.1 Customer Service is available by calling 1300 126 999 from a fixed landline, or 126 999 from a Hello Mobile handset.

13.2 Calls to Customer Service is charged at the rate provided in the Standard Rate Table.

13.3 Any questions, issues or complaints regarding the Services provided can be addressed in any of the following ways:

- a) via telephone, by calling 1300 126 999 during standard business hours;

- b) via mobile phone, by calling 126 999;

- c) via email [support@hellomobile.com.au](mailto:support@hellomobile.com.au) ;

- d) via mail or post to Level 10, Tower B 821 Pacific Highway, Chatswood NSW 2067.

13.4 Should the Customer feel that a complaint is not satisfactorily addressed, the Customer may be entitled to raise the matter with the Australian Communications and Media Authority (ACMA), the Australian Consumer and Competition Commission (ACCC) or the Telecommunications Industry Ombudsman (TIO).

13.5 The National Relay Service (NRS) allows a customer who has a hearing deficiency, deaf, or has a speech impediment to allow translations which are convenient for the customer. For calls within Australia, dial 133 677; for calls within Australia to 1800 numbers, dial 1800 555 677.

13.6 For translating and interpreting services over the telephone, the Translating and Interpreting Service (TIS) may be of assistance. The TIS can be reached by dialing 131 450.

### **14 Limitation of Liabilities and Indemnity**

14.1 Neither Hello Mobile, its related Bodies Corporate nor its Suppliers will be liable in contract, tort (including negligence) or otherwise for direct or indirect or consequential losses, damages, expenses, inconvenience or injury arising from or in relation to the Services provided and the Customer's use of such Services, including without limitation for any loss of revenue, loss of profit, loss of anticipated savings or business, loss of opportunity (including opportunity to enter into or complete arrangements with third parties), loss of data or goodwill, loss of reputation or loss of management time.

14.2 A Customer may have certain rights and remedies available pursuant to the CCA, the TA and other laws which may imply certain conditions and warranties into this Agreement. Despite any other provision of this Agreement, Hello Mobile does not exclude or restrict or modify these rights and remedies or implied conditions or warranties where it is unlawful to do so. All other terms, conditions, warranties, undertakings, inducements and representations, whether express or implied, relating

to the supply of the Services or this Agreement are excluded.

14.3 Where Hello Mobile is liable for any loss or damage in connection with or arising from the breach of any term, condition, warranty or remedy that cannot lawfully be excluded, to the extent permitted by law Hello Mobile's liability (to the extent permitted by law) is limited to the repairing or replacement of the applicable service where the Service is not of a kind ordinarily required for personal, domestic or household use or consumption. To the maximum extent permitted by law, Hello Mobile limits its aggregate liability for Loss sustained by any Customer under or in connection with this Agreement (whether arising in contract, tort (including negligence) or otherwise) to the price paid for the Services.

14.4 To the maximum extent permitted by law Hello Mobile has no responsibility to the Customer or to any other person with respect to:

- a) acts or defaults of Suppliers;
- b) faults or defects in the Service provided which results from the Customer's own actions;
- c) faults or defects that arise in telecommunication services not provided under this Agreement which are due to incompatibility with the Services, even if such services are connected to Services which Hello Mobile have provided under this Agreement;
- d) porting of the Customer's Phone Number in accordance with a porting request received by Hello Mobile;
- e) delays in implementing a request to port the Customer's Phone Number;
- f) a failure to implement a request to port the Customer's Phone Number;
- g) any fraud, negligence, or misrepresentation made by the Customer.

14.5 The Customer shall at all times indemnify and hold Hello Mobile, its Related Bodies Corporate, its partners and associates, Vodafone and its Related Bodies Corporate (each an "Indemnified") from and against all Loss suffered or incurred by any of the Indemnified arising out of:

- a) any destruction of or damage to any Property of Hello Mobile or its Suppliers (including without limitation Vodafone) caused by the Customer, including by connection of unauthorised devices to the Mobile Digital Network (including Vodafone's Mobile Digital Network) or otherwise;
- b) any Claim relating to the Customer's use of the Services (including future services that may be made available by Hello Mobile) or the use of the same by any third party associated with the Customer who uses or purports to use the Services supplied under this Agreement;
- c) any fraud in connection with the Services or this Agreement by the Customer or any third party associated with the Customer who uses or purports to use the Services supplied under this Agreement;
- d) any contractual obligations of the Customer as referred to in clause 8.1.5 owed to the previous Carriage Service Provider or otherwise;
- e) any Claim relating to the infringement of any party's Intellectual Property Rights in connection with the use of the Customer's mobile phone or equipment and/or Customer's use of the Services or the use of the Services by any third party associated with the Customer who uses or purports to use the Services supplied under this Agreement;
- f) any breach by the Customer of any of the provisions of this Agreement;
- g) any unauthorised or illegal acts of the Customer.

14.6 Hello Mobile relies on third parties to carry calls made in Australia to international destinations. As such, calls carried by third parties are outside the

control of Hello Mobile and the Customer hereby acknowledges that Hello Mobile will not be liable in any form for any loss, damage, costs and expenses, whether directly or indirectly, arising out of the carriage of these calls, including, but not limited to, the quality, connectivity or delay in the connection or signal of such calls.

## **15 Customer Acknowledgements and Supplementary Obligations**

15.1 These acknowledgements and obligations are in addition to those found elsewhere on this agreement.

15.2 The Customer acknowledges and agrees that:

- a) the Service relies on the services of third party Suppliers for its operation, who are not under the control or supervision of Hello Mobile;
- b) Hello Mobile does not exercise any control over, nor warrants any of the following:
  - i) The Customer's right or ability to use, access or transmit any content using the Service;
  - ii) the quality, accuracy, correctness, completeness or suitability of any content which the Customer may send, receive or access using the Services;
  - iii) the consequences of a Customer using, accessing or transmitting any content using the Services, including viruses and other harmful software, or code;
  - iv) any charges which a third party may impose on the Customer.

15.3 Hello Mobile supplies the Services for the purpose of:

- a) originating or making voice calls or other mobile services on the Network;
- b) terminating or receiving calls or other mobile services on the Network, which originate on the Network or on the network of another Carriage Service Provider with which the Network has a current interconnection arrangement.

15.4 In using the Services, the Customer must:

- a) comply with any rules imposed by any third party whose content or services the Customer accesses using the Services, or whose network the Customer's data passes;
- b) not infringe any person's Intellectual Property Rights such as using, distributing, or copying data or software without the consent of the rightful owner.

15.5 In addition to the Customer's obligation under this Agreement, the Customer must not:

- a) must not make or receive calls in a manner that has not been prescribed in the Agreement above;
- b) transmit, refile or aggregate domestic or international traffic on the Network in connection with the Services or an individual service;
- c) use the Services or an individual service in connection with a device that switches or reroutes calls to or from the Network, without the prior written consent of Hello Mobile.

15.6 If the Customer breaches any of the above clauses in respect to Services or an individual service, then Hello Mobile may, in addition to and without prejudice to other rights, immediately suspend or terminate the Services or the individual service without notice to the Customer concerned.

15.7 The Customer acknowledges that Hello Mobile gives no warranty as to the performance or characteristics of any software supplied in connection with the Service.

15.8 The Customer must not reverse the charges on any telephone call or accept a

reverse charged call. This rule applies when the Customer loans or gives the mobile phone to someone else.

15.9 The maximum call length is 3 hours, 59 minutes and 59 seconds.

15.10 Hello Mobile may refuse to provide any part of the Services to the Customer. If the Customer feels that their mobile phone should not be barred, kindly contact Customer Service or email Hello Mobile at [support@hellomobile.com.au](mailto:support@hellomobile.com.au)

15.11 The Customer acknowledges and agrees that:

- a) the Services are provided to the Customer by Hello Mobile and not by Vodafone;
- b) except to the extent required by Law, Vodafone is not liable to the Customer in respect of any of the Services; and
- c) Vodafone is not responsible for providing the Services (or any other services pursuant to this Agreement) to the Customer.

The Customer undertakes not to make any Claim against Vodafone in respect of any of the Services.

## **16 Force Majeure**

16.1 Hello Mobile shall not be liable to the Customer or be deemed to be in breach of this agreement by reason of any delay or failure to provide any of Hello Mobile's obligations in relation to the Services, if such delay or failure was due to any cause beyond Hello Mobile's reasonable control ("Force Majeure").

16.2 Force Majeure includes but is not limited to the following instances:

- a) Network failure;
- b) Services' suspension dictated by the Network provider in order to carry out repairs, maintenance or updating;
- c) where required by Law or in order to protect the Customer against any possible harm;
- d) war;
- e) accident;
- f) public disorder, civil commotion or sabotage;
- g) military action;
- h) acts of terrorism;
- i) vandalism;
- j) judicial action;
- k) labour disputes;
- l) an act of a government or a government authority;
- m) acts of God;
- n) earthquakes, explosion, epidemic, lightning, fires, floods, or other natural calamity;
- o) computer viruses or failure of the internet or delay;
- p) network, equipment or software failure, technical failure, cable transmission and/or satellite failure or degradation;
- q) the decision of any court or other body of competent jurisdiction;
- r) any other event, fact or circumstance which is beyond the reasonable control of Hello Mobile.

16.3 Hello Mobile agrees to use reasonable endeavours to remove the cause and/or effect of the Force Majeure. Hello Mobile may terminate this Agreement if the Force Majeure continues for an uninterrupted period of 30 days or more.

## **17 Intellectual Property Rights**

17.1 The title and goodwill attaching to the names, trademarks, copyright, brands and

logos of Hello Mobile shall remain with Hello Mobile.

17.2 The intellectual property in the SIM card, Services including the software rights does not belong to the Customer but rather is supplied to the Customer, under license, by Hello Mobile for proper use only. The Customer may not copy or otherwise use any of the IP without infringing Intellectual Property Rights. If the mobile phone, SIM card and associated products are disconnected from the Services or when Hello Mobile changes the IP, the Customer undertakes to either destroy or return the SIM card to Hello Mobile. If the same is not returned, the Customer must pay for the SIM card or a replacement thereof at the amount stated in the Standard Rates Table.

17.3 As long as the contractual relationship subsists, Hello Mobile grants the Customer a non-transferable and non-exclusive right to use the Services and associated mobile products provided by Hello Mobile in accordance with this Agreement. Hello Mobile or the licensor fully retains the rights to all corresponding Intellectual Property Rights.

## **18 Assignment**

18.1 The Customer is permitted to transfer rights and obligations arising from this Agreement to third parties only with the prior written consent of Hello Mobile, with such consent not be withheld without a reasonable justification. In registering with Hello Mobile, the assignee is deemed to have accepted the terms and conditions for the Service contained in this agreement as well as all liabilities and arrears associated with the SIM card.

18.2 Hello Mobile is entitled to assign the benefit of and novate its rights and obligations under this Agreement or to transfer the same to any party (including without limitation Vodafone) without the Customer's consent at any time. The Customer hereby irrevocably appoints Hello Mobile as its lawful attorney to execute all documents and to do all acts necessary or desirable to give effect to such an assignment or novation of the Agreement.

18.3 For the purposes of novation, the Customer hereby agrees to any novation of this Agreement to Hello Mobile's Supplier (including without limitation Vodafone) on receipt of a notice of such novation provided that the terms are no less favorable than the terms of this Agreement applying immediately before the novation.

18.4 The Customer agrees to provide all reasonable assistance and execute such documents required to effect any such transfer under this clause 18.

## **19 General**

19.1 Place of jurisdiction and applicable law

This agreement and the supply of the Services will be subject to the laws of New South Wales, and the Customer irrevocably and unconditionally agrees to the non exclusive jurisdiction of the Courts of New South Wales and any courts which have jurisdiction to hear appeals from any of those courts and waives any right to object to any proceedings being brought in those courts in respect of any dispute arising from the execution or interpretation of the Agreement.

19.2 Information

Hello Mobile may give to and receive from other Suppliers or Carriage Services Providers information about the Customer's Service, including the particulars of calls and call charges involved.

19.3 Entire Agreement

This agreement contains the whole arrangement between the Customer and Hello Mobile to the exclusion of any prior or collateral Agreement of any kind.

#### 19.4 No reliance

The Customer acknowledges that the Customer enters into this Agreement entirely as a result of their own enquiries and that the Customer does not rely on any statement, representation or promise by Hello Mobile or on Hello Mobile's behalf not expressly stipulated in this Contract.

#### 19.5 Waiver

Any delay or failure on the part of any party in exercising any right, power or remedy under this Agreement in a timely manner does not operate as a waiver thereof. Nor does it represent an implied acceptance, unless a waiver is executed in writing and signed by both parties concerned.

#### 19.6 Release

The Customer hereby releases Hello Mobile and its officers, employees, agents and advisers from all claims, suits and demands of every kind, including negligence, arising from the relationship of the parties concerning this Agreement before it was signed, and from the negotiations leading to the Agreement.

#### 19.7 Notice

A notice issued under this Agreement must be in writing and will be understood to be received when:

- a) it is left at the address of the addressee at the time it was left;
- b) it is sent through ordinary post, on the third day after posting;
- c) it is sent via email, at the time of successful transmission;
- d) if sent by SMS, at the time of successful transmission.

#### 19.8 Survival

A finding that any stipulation in this Agreement is, or has become invalid, illegal or unenforceable in any manner shall not affect or impair the validity, legality or enforceability of any of the other stipulations of this Agreement provided that no party is materially prejudiced in their respective rights.

#### 19.9 Conflict

In an instance wherein there is a conflict between the terms and conditions of this Agreement and any other advertising material, the terms and conditions of this Agreement will prevail.

#### 19.10 Benefit of Agreement

In case of doubt, the benefit of the terms and conditions of this agreement is in favor of Hello Mobile as the principal, and on trust for Vodafone. The Customer agrees that Vodafone may enforce the terms and conditions of this Agreement against them.

### **20 Interpretation of provisions**

20.1 In this Agreement, unless the contrary is provided:

- a) heading are for convenience only and do not affect the interpretation of the provisions;
- b) the singular includes that plural and vice versa;
- c) all references to amounts, dollars, value and price are denominated in Australian currency;
- d) any references to a party includes its successors and assigns;
- e) any references to payment to any party includes payments to another person on the direction of that party;
- f) any reference to any statute includes any amendments, re-enactments or replacements to the statute.

### **21 Fair Use Policy**

21.1 It is important to Hello Mobile that all eligible Hello Mobile customers are able to access our Services. Accordingly, we have devised a Fair Use Policy which applies to:

- (a) usage of Hello Mobile Data Services; and
- (b) any promotions or Services which are advertised by Hello Mobile as subject to the Fair Use Policy ("Fair Use Promotions"). A more detailed stipulation can be found in Annex 3 (Fair use Policy)

21.2 We reserve the right to vary the terms of the Fair Use Policy from time to time.

21.3 Hello Mobile may rely on the Fair Use Policy where:

- (a) your usage of Hello Mobile Data Services is unreasonable; or
- (b) your participation in a Fair Use Promotion is unreasonable, as defined below.

21.4 Unreasonable Use

It is unreasonable use of Hello Mobile Data Services where Your use of Hello Mobile Data Services is reasonably considered by Hello Mobile to be fraudulent or to adversely affect the Hello Mobile Network or other Hello Mobile customers' use of or access to a Hello Mobile Service or the Hello Mobile Network.

- a) It is unreasonable use of a Fair Use Promotion where Your participation in a Fair Use Promotion is reasonably considered by Hello Mobile to be fraudulent or to adversely affect the Hello Mobile network or another Hello Mobile customer's use of or access to a Hello Mobile service or the Hello Mobile network.
- b) Among other things, "fraudulent use" includes resupplying a Hello Mobile Service without Hello Mobile's consent so that someone else may access or use Hello Mobile Data Services or take advantage of a Fair Use Promotion.
- c) Unreasonable use also includes an abuse of the promotions wherein in the opinion of Hello Mobile, the Customer has, or is taking unfair or unreasonable advantage of such promotions.

21.5 Our Rights

- a) Where You are in breach of this Fair Use Policy, Hello Mobile may contact You to discuss changing Your usage so that it conforms to this Fair Use Policy.
- b) If, after Hello Mobile has contacted you, Your excessive or unreasonable use continues, Hello Mobile may, without further notice to you:
  - (i) suspend or limit the Service (or any feature of it) for any period We think is reasonably necessary; and/or
  - (ii) terminate Your agreement in accordance with the relevant Part of Section 4, Terms & Conditions of the Standard Form of Agreement.

## **22 Defined Terms**

Unless the contrary intention appears or the context otherwise requires, the words, terms or expressions set forth below were used in this Agreement shall have the respective meanings set out below.

2G Network means a Public Mobile Telecommunications Network based on circuit switching where the maximum transfer rate for data traffic is 14.4 K/bits or less.

2.5G Network means a Public Mobile Telecommunications Network where the maximum transfer rate for data traffic is 56 K/bits or greater.

3G Network: means a Public Mobile Telecommunications Network that utilizes the Universal Mobile Telecommunications Service as standardized by the European Technical Standards Institute.

ACCC: The Australian Competition and Consumer Commission.

ACMA: The Australian Communications and Media Authority.

Activate/Activation: the initial activation of the Services pursuant to Clause 1.2.

Aggregated Data: means data or information about Customers which is aggregated together in a manner that does not enable identification of individual Customers.

Agreement: the Standard Form of Agreement and any other documents validly incorporated by proper reference.

BSA: the Broadcasting Services Act 1992 (Commonwealth).

Call Credits: the amount of money the Customer has in their account balance from which the Services will be paid for.

Carrier: the same meaning as defined in Section 7 of the Telecommunications Act 1997.

Carriage Service Provider: the same meaning as defined in Section 87 of the Telecommunications Act 1997.

Claim: means any claim, action, proceeding or investigation of any kind and includes the allegation of a claim.

Customer: any natural person, legal entity or partnership that uses the Services provided by Hello Mobile and is deemed to have accepted the Agreement.

Customer Details: means all information, other than Aggregated Data, about a Customer including full name, billing address, street address, Service Number(s) (whether silent or not), and any other information about or relating to the use by a Customer of the products and services of Hello Mobile.

Customer Service Helpline/Hotline: 126 999 from a Hello Mobile phone or 1300 126 999 from a land line.

Directory Assistance Services: has the meaning given in the TA.

Emergency: a situation which, unless immediately addressed or remedied, has the potential to endanger life or safety or to cause immediate risk to property.

Emergency Call Services: has the meaning given in the TA.

GPRS Network: means that part of the Supplier's (including without limitation Vodafone) Mobile Digital Network using General Packet Radio Service data transmission technique.

GSM: the Global System for Mobile communications cellular network.

GST: the goods and services tax under A New Tax System (Goods and Services Tax) Act 1999 that may be in force in Australia.

IMEI Blocking: blocking the mobile phone so that it cannot be used on any GSM network.

Integrated Public Number Database: has the meaning given in the TA.

Intellectual Property Rights: means any industrial and intellectual property rights throughout the world and for the duration of the rights including:

- a) any patents, copyright including future copyright, registered or unregistered trade marks or service marks, trade names, brand names, registered or unregistered designs, commercial names, circuit layouts, database rights;
- b) methods, trade secrets, know-how, computer software, confidential information and scientific, technical and product information;
- c) the right to apply for any industrial and intellectual property rights; and
- d) any other similar or analogous rights and any intellectual or industrial rights whether now existing or which come into existence in the future.

Interruption/Interrupts in the supply of goods or a service: a delay in supplying, a failure to supply or an error or defect in the supply of, those goods or that service.

Law/s: any of the following:

- a) legislation, regulations, determinations, by-laws, declarations, ministerial directions and other subordinate legislation;

- b) common law;
- c) government agency requirement or authorization (including any conditions of any authorization);
- d) mandatory codes, standards and guidelines;
- e) writ, order, injunction or judgment;
- f) local government legislation including regional, district and zone plans, regulations, by-laws, declarations and other subordinate legislation.

Loss: all losses, expenses, damages, fees, fines and costs (including legal costs on a full indemnity basis).

Hello Mobile/Hello: Hello Mobile ACN 073 079 286 whose registered office is at level 10, Tower B, 821 Pacific Highway, Chatswood NSW 2067

Mobile Digital Network means a 2G, a 2.5G or a 3G Network.

Network/Hello Network: the telecommunications network of the Supplier (including without limitation Vodafone) which is used to supply the Services and which Hello Mobile resupplies to the Customer as set out in the Service Description. [The facilities provided by Hello Mobile and operated by Vodafone for the purpose of providing public mobile GSM digital telecommunication services.]

SIM Phone Number/Phone Number: Mobile Service Number allocated pursuant to the Telecommunications Numbering Plan 1997. It is the Customer's mobile phone number.

Network Locking: that the mobile phone has been programmed to work only on one of the GSM networks.

Numbering Plan: means the Numbering Plan made by the ACMA under the TA.

Operator Services: has the meaning given in the TA.

Personal Information: has the same meaning as defined in the Privacy Act 1998 (Commonwealth) as amended.

Port/Porting: means the transfer of a Phone Number between suppliers of telecommunication services.

Privacy Act: the Privacy Act 1988 (Commonwealth).

Property of a party means any item or property owned or under the control of that party.

Public Mobile Telecommunications Network: means a Network that supplies a "public mobile telecommunications service" as defined in section 32 of the TA.

Recharge: pre-paid recharge vouchers which when activated gives the Customer an amount of Call Credit.

Regulatory Event means:

- a) the enactment, amendment, replacement or repeal of the TA, the TCPSS Act, the CCA, the BSA or other telecommunications related legislation or regulations;
- b) the making of a determination or finding by the ACCC, the ACMA or a Court of law that all or any part of this Agreement contravenes any provision of any Law;
- c) the determination, addition, variation or removal of a service provider rule (as defined in the TA) applicable to a party;
- d) the issue, registration, making, promulgation, amendment or replacement of any code or standard by the ACCC or the ACMA or a Court of law;
- e) the issue of a competition notice to a party under Part XIB of the CCA;
- f) the grant of an injunction against a party in relation to a breach or alleged breach of the CCA;
- g) the giving of a lawful direction to a party by the ACCC, the ACMA or any relevant Minister or other governmental agency or authority;
- h) an arbitration by the ACCC under Part XIC of the CCA; or

i) the declaration by the ACCC under Part XIC of the CCA of any service not declared as at the date of this Agreement, or a material variation to any service declared as at the date of this Agreement.

Related Bodies Corporate: the same meaning given in the Corporations Act 2001 and in the case of Vodafone, includes each other member of the Vodafone Group from time to time.

Service/s: the Hello Mobile pre-paid digital telecommunications service and other such services as Hello Mobile may provide the Customer.

Service Number: means any telephone, facsimile, data or other service number that is capable, in accordance with the Numbering Plan, of being used as an individual Network address on a Mobile Digital Network as the home Network for that address.

SIM card: the subscriber identity module card, to be used with a mobile telephone handset to enable the use of the Services.

SIM Pack: the SIM card and collateral provided by Hello Mobile to begin using the pre-paid mobile Services. No mobile phone is provided with the Hello Mobile SIM Pack.

Standard Rate Table: the table containing Hello Mobile's standard rates, tariffs and charges, attached at Appendix 1.

Starter Pack: the SIM card, mobile phone and collateral provided by Hello Mobile to begin using the pre-paid mobile Services.

Supplier: a Carrier, Carriage Service Provider, telecommunication service providers or equipment suppliers which supply a public mobile telecommunication service to Customers.

TA: the Telecommunications Act 1997 (Commonwealth).

TCPSS Act: the Telecommunications (Consumer Protection and Service Standards) Act 1999 (Commonwealth).

CCA means the Competition and Consumer Act 2010 (Commonwealth).

Unsuccessful Call: a call which is not successfully connected to a called number (a called number includes a number to which a called number diverts, which may also include connecting through a switch or PABX or similar system), including instances wherein:

- a) the called number is engaged, disconnected or out of order;
- b) the called number cannot be accessed using the Services;
- c) there are network or other service failures that have caused temporary Interruptions to the Services.

Vodafone: Vodafone Network Pty Limited ACN 081 918 461 or its Related Bodies Corporate.

Vodafone Group means Vodafone Group plc and any company in which Vodafone Group plc directly or indirectly, owns more than 15 per cent of the issued share capital.

Website: the Hello Mobile website at [www.hellomobile.com.au](http://www.hellomobile.com.au) as updated from time to time.

Appendix 1 – Standard Rate Table

Appendix 2 – Fraud Policy

Appendix 3 – Fair Use Policy