

# mobile - terms & conditions

Motion Telecom Pty Limited ABN 34 002 600 876

## Standard Agreement for the Supply of Motion Telecom Mobile

We thank you for becoming a Customer with Motion Telecom and taking the time to read this Agreement

### Motion Telecom Mobile – Terms & Conditions

We thank you for becoming a Customer with the 'straight talking' company and taking the time to read this Agreement.

#### 1. Our Partnership with You

- (a) This Agreement is binding once We have accepted Your request for the mobile Service and We shall connect Your Service after You have provided Us with valid and correct user details;
- (b) We shall open the account in Your name and then You shall be responsible for all charges incurred as a result of the Service. This also includes charges on Your Service, which may or may not have been incurred by You personally;
- (c) Our partnership with You shall incorporate any terms and conditions applying to Our Service that must be included by any laws, industry standards and codes;
- (d) We will provide the Service for You until the end of the term permitting the terms outlined in this Agreement are followed;
- (e) We may vary, alter, replace or revoke any part of this contract (including Our fees) at any time. You will be provided with the changes in writing either by mail on Our Website at [www.MotionTelecom.com.au](http://www.MotionTelecom.com.au);

#### 2. Our Service to You

- (a) We will make Our best efforts to offer the Service to You at all times but please be aware that the Service is not free from faults and or interruptions. These can be due to factors outside of Our control, such as Weather and faults in phone networks;
- (b) Our Service is only available to You, if You:
  - (i) Stay within the range of the network;
  - (ii) Do not become involved in or try to use the Service in a manner that is deemed to be improper, immoral, unauthorised or unlawful;
  - (iii) Provide Us with all information and co-operation that We may need in relation to the mobile Service;
  - (iv) Abide by the terms and conditions in this Agreement.

#### 3. What We ask of You

- (a) As the Customer, You must:
  - (i) Keep the SIM safe and in good condition;
  - (ii) Acknowledge that any SIM provided to You is the property Motion Telecom and You must return the SIM back to Motion Telecom if You are asked; please contact Our Customer care on 1300 13 33 99 if Your SIM is lost stolen or damaged;
  - (iii) Provide Motion Telecom all information and co-operation it may require in relation to the Service;
  - (iv) Agree not to claim any legal interest and good will in any number allocated to You by Motion Telecom. Also, You agree that in order for Us to comply with Numbering Regulations We may need to change, withdraw, suspend or reassign Your phone number.
- (b) As the Customer You must not:
  - (i) Become involved in, or try to use, any public mobile telecommunications Service or SIM card/s in any fraudulent or unauthorised way or knowingly or negligently allow another person to do so;
  - (ii) Do not jeopardise the operation of the network or knowingly or negligently allow any other person to do so;
  - (iii) Disclose any confidential information or security number such as Your enquiry password or personal identification number;
  - (iv) Use the CLI information derived from the CLI except in accordance with the Act;
  - (v) Not sell or redistribute any part of this Service.

#### 4. Charges and Payment

- (a) You authorise Motion Telecom to conduct a credit check. You must pass a credit check at the time You ask to be connected to Our Service;
- (b) Our pricing shall be provided in Our price lists that We will update from time to time and list on Our Website at [MotionTelecom.com.au](http://MotionTelecom.com.au). We will provide You with at least 14 days notice for price changes. New price lists will be provide to You by mail, SMS or notification on Our Website;
- (c) We will be invoicing You on a monthly basis and You must pay all outstanding invoices by the due date. You will have 7(confirm) days to pay the invoice from the invoice date;
- (d) You must pay by the due date on Your bill. If charges are not paid by this time, We can stop You using some or all of Our Service and may charge You a dishonour fee and /or a late payment fee. No payment of the bill will put You breach of this contract and We can cancel Your Service immediately under clause 9;
- (e) On Your behalf We will monitor Your account for unusual and improper use and as such Your account will have a pre set spending limit. When Your mobile exceeds that pre set limit You will be contacted and an advance payment may be required on Your Service. We can alter the limit at Our discretion. For more information regarding the pre set limit please do not hesitate to contact one of Our Customer care representatives;
- (f) Motion Telecom may pay an agent a commission for introducing You to the Service;
- (g) If You have a Straight talking phone package, You must spend the minimum amount each and every month. The amount cannot be carried over to subsequent months and must be used in its entirety during the applicable month. Roaming and special calls do not count towards Your minimum spend.

#### 5. Your mobile

- (a) As Our Customer, Motion Telecom will provide You with 2 payment options for the purchasing of a mobile. You can purchase Your chosen mobile in a one off payment or in pre defined monthly instalments;
  - (i) When You purchase a handset by instalments You must agree to the conditions of the finance company, which will be a 3rd party. Terms of finance are provided for in a separate contract.
  - (ii) If You chose to obtain a "Straight Talking" plan Your handset instalments are included in Your package and You wont have to make any additional payments, so long as You maintain the minimum spend commitment for the duration of the Agreement;
  - (iii) If at any time You cancel or change Your Service with Us, You will be liable for the outstanding amount. This outstanding balance will be calculated as a pro-rata of the 24-month instalment price of the phone from the date it was bought and any upfront instalments still owing (if applicable);
  - (iv) Until the expiry of the term, We will always retain the legal and beneficial ownership of, and You have no rights to, the hardware, other than to use the hardware during the term;
  - (v) Once Our partnership term is over ownership of the Hardware becomes yours.

**motion**  
telecom

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### 6. Liability

- (a) We are not liable to You for any breach of any express or implied terms, conditions or warranties of Our contract, including the non-provisioning of Our pricing brochure at any time;
- (b) We aren't liable to You for any loss of income, interest, business, or profits, or for any indirect, incidental or consequential loss or damage;
- (c) Where We cannot by law exclude such liability, Our liability for such breaches will be limited, at Our choice to, if the breach relates to goods, the replacement or repair of the goods or, if the breaches relate to Services, the supplying of those Services or the payment of the cost of having those Services supplied again;
- (d) Vodafone is not liable to You (in contract, Tort (including negligence) or otherwise) in relation to any delay or any failure to provide Service.

### 7. Assignment

- (a) As the Customer You may not transfer or assign any rights and obligations under this Agreement without the prior written permission of Motion Telecom;
- (b) We reserve right to and may without notice assign or novate all rights and obligations under the contract to Our nominee or Related Body Corporate. We may also require You to novate this Agreement in favour of Motion Telecom's nominee. All such novations to be on terms no less favourable than the terms of the contract in existence immediately prior to the novation.

### 8. Suspension or disconnection of Your Service

- (a) Your use of the Service may be temporarily suspended or permanently disconnect any SIM card from the network and cancel this Agreement without warning, if:
  - (i) The network needs maintenance or upgrading;
  - (ii) You exceed Your pre set spending limit;
  - (iii) You, or anyone who uses the SIM, doesn't comply with the terms of this Agreement;
  - (iv) The use of the Service by any person may damage the network;
  - (v) You do not use the Service for a period of 12 months;
  - (vi) We are instructed by a regulatory body such as the ACA;
  - (vii) Our Agreement with the carrier has ended or the carrier has ceased to exist;
  - (viii) Any of Your assets come under the control of another person such as a receiver;
  - (ix) You do not pay Your bill by the required due date in clause 4.

### 9. The end of Our Agreement

- (a) You, or We can cancel this Agreement at Our discretion at any time for any reason;
- (b) If You breach a part of this Agreement You will be specified a period of time to correct the breach and failure to do so will result in the cancellation of the Service;
- (c) You will be required to pay all outstanding amounts on Your account and any instalments You owe on Your mobile phone;
- (d) You will have no continuing rights to Your mobile number. (We may, subject to Our obligations under the ACA's numbering plan, allocate Your number to someone else;
- (e) You may port Your number to another carrier or Service provider, however You will liable for all outstanding amounts owing either on Your account and/or mobile phone;
- (f) Please be aware that not all mobile handsets are compatible with all mobile platforms.

### 10. Privacy

- (a) We will provide You with access to Your account information in accordance with the Privacy Act;
- (b) We may receive and disclose personal information or documents about You to or from credit reference agencies to help Us make credit decisions or for fraud protection purposes. You consent Us, Our agents, suppliers, and other carriers, using and disclosing personal information about You in credit related matters in accordance with the Privacy Act;
- (c) We may also be ask to co-operate with any law enforcement agencies to use personal information to assist them with the prevention of criminal activities.

### 11. Governing law

- (a) This contract is governed under the laws of New South Wales.

### 12. Special offers

- (a) From time to time We have special offers and promotions available for users of the Service. Additional terms and conditions will apply to these offers, which You accept. All terms and conditions are available on request.

### 13. DICTIONARY

#### Definitions

- "ACA" means the Australian Communications Authority;
- "Act" means the Telecommunications Act 1997;
- "Agreement" means this Standard Agreement;
- "Call Rate" means the Call Rates for a Call Plan;
- "CLI" means calling line information;
- "Customer" means the person who uses the Service;
- "Hardware" means the mobile handset we provide you;
- "Insurance" means the Insurance You may buy for Your mobile phone;
- "Network" is the digital mobile phone Network that allows You to receive or use Our Service.
- "Numbering Regulations" refers to the ACA's numbering plan and regulations;
- "Related Body Corporate" has the meaning given to the term in the Corporations Law;
- "Service" means the mobile digital Service and for the avoidance of doubt, excludes any pre-paid or satellite service;
- "SIM" means the subscriber identity module card, to be used with a mobile phone handset to enable use of the Service;
- "Straight Talking Options" means a mobile phone package offered by Motion Telecom and selected by You, where You agree to pay Motion Telecom a set minimum amount each and every month for as long as You use the a Straight Talking option;
- "Starter Kit" means a kit containing a SIM card, a Phone Number and a start up guide;
- "We, Us and Our" means Motion Telecom Pty Limited ABN (25 083 170 683);
- "You and Your" means You the Customer who subscribes to Our Service;

