



CMOBILE PTY LTD

ABN 53 158 824 447

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**STANDARD AGREEMENT  
FOR THE SUPPLY OF  
3G/GSM CELLULAR MOBILE SERVICE**

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## INDEX

Dictionary

PART A – Service Description

PART B – CMOBILE Call Plans

PART C – General Terms & Conditions

PART D – Service Specific Terms & Conditions

PART E – Dictionary

CONTACT CMOBILE CUSTOMER CARE ON **1300 545 000**  
OR VISIT OUR WEBSITE AT [www.cmobile.com.au](http://www.cmobile.com.au)

National Relay Number 133 677

Translating & Interpreting Service (TIS) 131 450

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## PART A – SERVICE DESCRIPTION

### 1. GENERAL INFORMATION

#### (a) The Service

The CMOBILE service is a 3G/GSM Service which You acquire from CMOBILE. CMOBILE provides the 3G/GSM Services using the Vodafone Mobile Network for the CMOBILE C Red plans or Part of Telstra's Mobile Network for the CMOBILE C Blue plans.

The 3G/GSM Service is available to You within the coverage area of the Vodafone Mobile Network for the CMOBILE C Red plans or Part of Telstra's Mobile Network for the CMOBILE C Blue plans.

To use the full coverage and capabilities of the CMOBILE C Red plans, You must have a handset capable of accessing GSM Services at 900/1800 MHz, and 3G Services at 850MHz/2100MHz. To use the full coverage and capabilities of the CMOBILE C Blue plans, You must have a handset capable of accessing GSM Services at 900/1800 MHz, and 3G Services at 850MHz/2100MHz.

### 2. THE 3G/GSM SERVICE

#### (a) General information on 3G/GSM Service

The 3G/GSM Service provides You with access to a public mobile telecommunication service using the Vodafone Mobile Network for the CMOBILE C Red plans or Part of Telstra's Mobile Network for the CMOBILE C Blue plans, and can be used by You to make and receive voice calls to and from:

- a) telephones connected to Australian telecommunications networks, including Australian PSTN networks, calls to Free and Local Rate Numbers, and Australian mobile networks to which the Service Network is able to terminate calls;
- b) calls to special numbers used to provide special services such as operator services, Value Added Services, and connection to Special Calls such as maritime, remote and satellite services; and
- c) international direct dialled numbers.

The 3G/GSM Service is subject to interconnection arrangements between the Service Network and the relevant operator of the network with which the called number is associated.

### 3. VALUE ADDED SERVICES AND SPECIAL CALLS

The following Value-Added Services are available with the Service.

#### (a) Operator Services:

- calls to emergency services: by dialling 000 or 112 within Australia, You will be connected straight through to emergency services - emergency calls made from outside Australia may require different numbers, please check with CMOBILE customer care on 1300 545 000;
- network problem reporting: to report any difficulties or faults with the Service Network, dial CMOBILE customer care on 1300 545 000 from within Australia and +61 410 699 998 for calls made when using International Roaming from outside Australia.

**(b) Value Added Services and Special Calls**

Once Connected to the Service, You may have access to CMOBILE's Value Added Services and Special Calls, which are divided into calls to certain numbers.

**(i) CMOBILE C Red plan 3G/GSM Service - Call Options**

If You have CMOBILE's approval, You may call:

- maritime, remote and satellite services;
- 19XX numbers;
- 15XX numbers (otherwise excluding 1500, 1505, 1512, 1513, 1540, 1571 and 1575); and
- international direct dialled numbers.

**(ii) CMOBILE C Red plan 3G/GSM Service - Value Added Services**

Value Added Services associated with the CMOBILE C Red plan 3G/GSM Service are a suite of answering and message services available with the 3G/GSM Service. These Value Added Services include:

- Voicemail: You can divert Your calls to voicemail and dial 121 to retrieve voicemail messages (dial +61 414 121 121 from outside of Australia);
- Calling Line Identity: this default service allows You to identify an incoming caller before You answer the call when used with compatible handsets. To permanently de-activate the service dial CMOBILE customer care on 1300 545 000. To de-activate on a call-by-call basis dial 1831 before the called number;
- Call Barring: this service is a security option which allows incoming and/or outgoing Calls to be barred. For assistance with this service, call CMOBILE customer care on 1300 545 000;
- Call Forwarding: this service allows Customers to forward Voice Calls to Your mobile number to another domestic Australian telephone number.

Please note that CMOBILE is not obliged to, and does not maintain a record of Your voicemails once they have been deleted.

These Value Added Services can be used as required without incurring a monthly subscription fee. You only pay for the services actually used. Rates for using voicemail services are indicated in the Call Plan.

(iii) CMOBILE C Blue plans 3G – Call Options

If You have CMOBILE's approval, You may call:

- maritime, remote and satellite services;
- 19XX numbers; and
- international direct dialled numbers.

(iv) CMOBILE C Blue plans 3G – Value Added Services

Value Added Services associated with the CMOBILE C Blue plans are a suite of answering and message services available with the 3G/GSM Service. These Value Added Services include:

- Voicemail: You can divert Your calls to voicemail and dial 121 to retrieve voicemail messages (dial +61 414 121 121 from outside of Australia);
- Calling Line Identity: this default service allows You to identify an incoming caller before You answer the call when used with compatible handsets. To permanently de-activate the service dial CMOBILE customer care on 1300 545 000. To de-activate on a call-by-call basis dial #31# before the called number;
- Call Barring: this service is a security option which allows incoming and/or outgoing Calls to be barred. For assistance with this service, call CMOBILE customer care on 1300 545 000;
- Call Forwarding: this service allows Customers to forward Voice Calls to Your mobile number to another domestic Australian telephone number;

Please note that CMOBILE is not obliged to, and does not maintain a record of Your voicemails once they have been deleted.

These Value Added Services can be used as required without incurring a monthly subscription fee. You only pay for the services actually used. Rates for using voicemail services are indicated in the Call Plan.

**(c) CMOBILE C Red plans - Vodafone Branded Services**

Vodafone Branded Services are available to You, but may be withdrawn at any time by CMOBILE. Vodafone Branded Services include:

- 123 Directory Assistance: by dialling 123 from a mobile phone in 3G/GSM Mode connected to the Vodafone Mobile Network, a Vodafone assistant will provide help and assistance at any time.
- 123 Directory Assistance with THRUconnect: by dialing 123 for directory assistance with THRUconnect, the Vodafone operator will look up the number and offer to connect the call straight through. No redialling is necessary. For overseas directory assistance, dial 1225. THRUconnect is not available for Free and Local Rate Numbers, international direct dial numbers or calls made outside the Vodafone Mobile Network.

- 123 Information Services: provides up to date information regarding sport, entertainment, accommodation in most areas.

**(d) CMOBILE C Blue plans – Telstra Branded Services**

Telstra Branded Services are available to You, but may be withdrawn at any time by CMOBILE. Telstra Branded Services include:

- Sensis 1234: by dialling 1234 from a mobile phone in 3G/GSM Mode connected to Part of Telstra's Mobile Network, a Sensis assistant will provide help and assistance at any time.
- Call Connect 12456: by dialling 12456 for directory assistance with Call Connect, the Telstra operator will look up the number and offer to connect the call straight through. No redialling is necessary. For overseas directory assistance, dial 1225. Call Connect is not available for international direct dialled numbers or calls made outside Part of Telstra's Mobile Network.

**(e) Customer Service**

For any enquiries regarding the 3G/GSM Service, You can call CMOBILE customer care on 1300 545 000 from any fixed or mobile phone. CMOBILE customer care staff are available between the hours of 9:00am to 6:00pm AEST Monday to Friday, or as otherwise indicated from time to time on our website at [www.cmobile.com.au](http://www.cmobile.com.au) for general service and billing enquiries.

**(e) Coverage**

There are certain restrictions on 3G/GSM Service coverage in addition to the restrictions set out in Part A. CMOBILE provides You with up to date information about the coverage of the Vodafone Mobile Network throughout Australia for the CMOBILE Red plans on its website at [www.cmobile.com.au/support](http://www.cmobile.com.au/support), or up to date information about coverage of Part of Telstra's Mobile Network for the CMOBILE Blue plans on its website at [www.cmobile.com.au/support](http://www.cmobile.com.au/support).

To use the full coverage and capabilities of the CMOBILE C Red plan 3G/GSM Service, You must have a handset capable of accessing GSM Services at 900/1800 MHz, and 3G Services at 850MHz/2100MHz. To use the full coverage and capabilities of the CMOBILE C Blue plan 3G/GSM Service, You must have a handset capable of accessing GSM Services at 900/1800 MHz, and 3G Services at 850MHz/2100MHz.

Before Connecting a 3G/GSM Service provided by CMOBILE, You must first check that You have coverage from the Service Network at the locations where You wish to use the 3G/GSM Service. If You do not have access to the Internet, You can contact CMOBILE customer care on 1300 545 000 for up to date coverage information.

Within certain coverage areas, some local conditions could prevent or interfere with mobile phone reception. Such conditions may include basement car parks, lifts, buildings, vegetation, mountains and road cuttings. There may also be interferences to the Service in buildings or other objects which block the signal to the Service Network, or due to maintenance or downtime on the Service Network.

**(f) Getting Started with CMOBILE**

Connection to the 3G/GSM Service requires the activation of a SIM, which when inserted into a handset activates the handset to the Service Network. Your contract with CMOBILE commences on the activation of the SIM. Full details on activating the SIM are provided at the point of purchase. The SIM remains CMOBILE's property and must be returned on request.

Once Connected to the Service, You are offered:

- the use of a mobile phone number;
- fault rectification during CMOBILE's business hours;
- Customer care services between the hours of 9:00am to 6:00pm AEST Monday to Friday, or as otherwise indicated from time to time on our website at [www.cmobile.com.au](http://www.cmobile.com.au);
- access within Australia to the Vodafone Mobile Network for the 3G/GSM Service on CMOBILE C Red plans, or to Part of Telstra's Mobile Network for the 3G/GSM Service on CMOBILE C Blue plans;
- access to CMOBILE's Value Added Services as provided on the relevant network option (where available); and
- until withdrawn, access to certain Vodafone Branded Services with the CMOBILE C Red plan network option, or access to certain Telstra Branded Services with the CMOBILE C Blue plan network option.

**5. CALL TYPES AND CHARGES**

There are a number of different Call Types and Value-Added Services available with the 3G/GSM Service.

**(a) Categories of Charges**

There are 5 general categories of charges for the 3G/GSM Service:

- (i) Connection / Reconnection charges;
- (ii) Monthly Access Charges;
- (iii) Call charges;
- (iv) Value Added Services and Special Calls; and
- (v) other charges.

All charges are subject to change. All prices are quoted including GST. Actual charges may vary on your statement as charges are rounded to the nearest cent before GST is included.

In some circumstances business and other organisations may be entitled to claim an input credit tax on GST paid. Please refer to your financial adviser for details.

**(i) Connection / Reconnection Charges**

When Connecting or Reconnecting to CMOBILE, Customers may be required to pay a Connection fee. From time to time, CMOBILE may have offers which reduce or remove the Connection / Reconnection fee. Customers should consult the relevant Call Plan to determine whether a Connection / Reconnection fee is payable.

**(ii) Monthly Access Charges**

A monthly access fee, being the Minimum Monthly Fee, is for the costs associated with accessing the Service Network, including access to the Value Added Services and Special Calls.

For the period from Connection until You commence Your first full billing cycle, monthly access fees will be billed on a pro rata basis. For the avoidance of doubt, any Included Call Value for the first billing cycle will also be prorated for that period. Monthly access fees are payable for each full monthly billing cycle in advance. Call charges are billed at the end of each billing cycle in arrears.

**(iii) Call Charges**

Customers will be charged only for successfully connected Voice Calls. For example, there is no charge for Voice Calls to an engaged number, however Voice Calls that are successfully connected are charged regardless of the quality of that Voice Call. Voice Calls are charged from the time the Call is answered at the number requested.

Voice Calls are charged per minute (or part thereof) unless another billing increment is specified in the Call Plan for that specific Call Type. All Call Rates and charges are subject to rounding from three decimal points to two decimal points.

Most international direct dial and Special Calls are charged per minute (or part thereof) unless another billing increment is specified in the Call Plan for that specific Call Type. Flagfall is charged on most international direct dial and Special Calls.

Messaging Call Types are charged on successful submission of the message, regardless of whether the message is actually delivered, as these services are store and forward services and there are many factors outside of the control of CMOBILE which may affect delivery, including the availability of the message recipient and the operation of any third party networks.

Data Call Types are charged for the use of Data services, regardless of the direction of usage (i.e. both data uploads and data downloads usually incur Call charges). Data Call service charges may be incurred in addition to the charges for other Call Types, where those other Call Types rely on Data services for their operation.

CMOBILE may waive any charge in its absolute discretion. Charges for all Call Types are Your responsibility contractually as You hold the Agreement with CMOBILE for the Service, irrespective of whether those Calls were made by You or another person.



#### **(iv) Calls to Value Added Services and Special Calls**

Calls made to Value Added Services and Special Calls are charged as per the rates advertised in the relevant Call Plan.

#### **(v) Other Charges**

In certain circumstances, CMOBILE will charge You additional charges. These charges are subject to change by CMOBILE at any time in its sole discretion.

Additional charges include (but are not limited to):

- bill reprint fee (\$5.00 per reprint): where You request that another copy of the bill is printed;
- change mobile number fee (\$20:00 per change): where You request a change to your mobile number. CMOBILE will not charge You a change mobile number fee in circumstances where You have a genuine need for a different mobile number outside Your control (for example, to avoid unwelcome or threatening calls);
- dishonoured cheque fee (\$15.00 per payment): where Your payment to be collected by CMOBILE has been rejected by Your financial institution, CMOBILE may charge a fee to recover the administrative costs of pursuing payment;
- early termination fee (calculated as the sum of the remaining unpaid access fees for the agreed minimum Contract Term): this fee is incurred where You Disconnect prior to the expiry of the agreed minimum Contract Term;
- late payment fee (\$10.00 per month): where You do not pay Your monthly bill by the due date, CMOBILE may charge a late payment fee to recover the administrative costs of pursuing payment;
- Reconnection fee (\$4.90 per Service): where You request that Your Service is Reconnected within two (2) weeks of Disconnection, and CMOBILE in its sole discretion consents to the Reconnection of the Service. CMOBILE will not charge a Reconnection fee if the Service was Disconnected due to any error or failure by CMOBILE;
- replacement SIM fee (\$10.00 per SIM): where You request the replacement of Your SIM card in circumstances where the SIM card is determined by CMOBILE not to be faulty (for example, where the SIM has been lost or damaged by You);
- transfer of ownership (\$10.00 per transfer): where You request that the ownership of the 3G/GSM Service is transferred to another person; and
- unbarring fees (fees vary according to CMOBILE's rules): where the 3G/GSM Service has been barred previously (whether at Your request or by CMOBILE) and You request that it be unbarred. Call CMOBILE customer care on 1300 545 000 for details. CMOBILE will not charge an unbarring fee if the Service was barred due to any error or failure by CMOBILE.

CMOBILE reserves the right to require You to pay a security deposit before being Connected, or to enable International Roaming, or to enable access to some Special Calls. The security deposit may be applied by CMOBILE against any outstanding fees and charges for the Service should You fail to pay any due amounts.

**(b) Charging Periods**

For the 3G/GSM Service the same rate for Calls applies at all times unless explicitly stated otherwise for a specific Call Type set out in the Call Plan.

**(c) Call Plans**

The standard Call Plans offered by CMOBILE in connection with the supply of the 3G/GSM Service generally consist of:

- a Connection charge;
- a Monthly Access Charge; and
- Call charges.

Full details of the terms and conditions for the Call Plan are set out in Part B, and on CMOBILE's website at [www.cmobile.com.au](http://www.cmobile.com.au). Charges are inclusive of GST (where applicable) and are subject to change.

**(d) International Roaming**

International Roaming is available to You if CMOBILE approves Your access to this capability based on credit criteria.

If You are granted access to International Roaming, You will be charged at the rate levied by the overseas carrier plus a CMOBILE charge. All incoming Calls while roaming, including without limitation Voice, Messaging and Data Call Types also incur these International Roaming charges. To activate International Roaming, and for information on Call Rates please contact CMOBILE customer care on 1300 545 000 at least 3 days prior to departure. A security deposit may be required. International Roaming charges are GST-free.

International Roaming is expensive, and You should only request access to International Roaming if You have the financial capacity to pay for the services You use, and You diligently monitor Your inbound and outbound Voice, Messaging and Data Call activity to avoid high charges.

**(e) GST**

- (a) The consideration payable for any Taxable Supply of any goods, services or other things under this Agreement is inclusive of any GST.
- (b) The GST will be charged at the GST Rate.
- (c) If at any time after 1 July 2000, the GST Rate is amended, then the consideration payable for any Taxable Supply of any goods, services or other things under this Agreement will be adjusted to give effect to that variation from the date of the variation's imposition.

## **PART B – CMOBILE CALL PLANS**

The Critical Information Summary (CIS), prepared in accordance with Chapter 4 of the TCP for each of the CMOBILE Call Plans, can be downloaded from our website at [www.cmobile.com.au](http://www.cmobile.com.au), or alternatively by contacting CMOBILE customer care on 1300 545 000, or by email to [support@cmobile.com.au](mailto:support@cmobile.com.au).

Detailed information about the current Call Rates for international direct dialled Calls, Value Added Services, and Special Calls for a Call Plan is available at [www.cmobile.com.au](http://www.cmobile.com.au), or alternatively by contacting CMOBILE customer care on 1300 545 000, or by email to [support@cmobile.com.au](mailto:support@cmobile.com.au).

### **IMPORTANT NOTICE**

The Call Rates for international direct dialled Calls, Value Added Services, and Special Calls for a Call Plan are subject to variation by CMOBILE at any time in its sole discretion. International direct dialled Calls, Value Added Services, and Special Calls for a Call Plan are generally subject to third party input costs outside the control of CMOBILE, and it is a term of each Call Plan that the Call Rates for these Call Types can be varied by CMOBILE at any time.

International direct dial and premium service Special Calls can be barred on request to CMOBILE at any time. To bar these services, You can contact CMOBILE customer care on 1300 545 000, or by email to [support@cmobile.com.au](mailto:support@cmobile.com.au).

The Call Rates for International Roaming are subject to exchange rate variations, and so whilst an estimate of the costs for inbound and outbound Calls from overseas networks can be made prior to activating International Roaming, the actual cost of those Calls can vary significantly. International Roaming charges are set by the overseas network, and as such the International Roaming charges can vary significantly between networks notwithstanding the fact that the different networks operate in the same locations in the overseas country. You can normally manually select an International Roaming network using the network selection feature available in Your handset.

Special Calls involving premium services are expensive, whether You are making voice calls to premium service numbers, or You are using messaging to and from premium service numbers. Many premium services charge You to receive content to Your handset, which in some circumstances may be set up on a regular subscription basis. Data charges may apply in addition to any premium services charges. If You wish to avoid premium service charges, please contact CMOBILE to have premium service barred from your Service.

## PART C - GENERAL TERMS AND CONDITIONS

### 1. THE SERVICE

- 1.1 CMOBILE supplies You with the Service on the terms and conditions set out in this Agreement.
- 1.2 CMOBILE will take all reasonable steps to make sure that You can receive the Service. However, You acknowledge that:
- (a) the Service is not free from faults or interruptions;
  - (b) You may not be able to use the Service in some areas, or in some buildings, or at certain times;
  - (c) CMOBILE does not warrant currency, availability, accuracy, security or the quality of any information which You receive or can access using the Service;
  - (d) You are responsible for any reliance on or use of the information which You receive or can access using the Service; and
  - (e) the Service can only be used in areas where the Service Network is present.
- 1.3 Subject to the *Telecommunications Numbering Plan 1997* (Cth), and national regulatory policy on numbering:
- (a) CMOBILE may allocate a number to Your Service and vary that number; and
  - (b) You have not, and You cannot claim any legal interest or goodwill in any number or PIN allocated by CMOBILE.

### 2. YOUR OBLIGATIONS

#### 2.1 You must:

- (a) keep the SIM safe and in good condition;
- (b) return the SIM to CMOBILE immediately upon request;
- (c) notify CMOBILE immediately of loss of, or damage to, a SIM;
- (d) use the spend control tools provided by CMOBILE, and otherwise diligently monitor Your Call usage so that You do not overcommit Yourself financially;
- (e) pay CMOBILE all fees and charges which are incurred in Your use of the Service, as set out in Part A and Part B of this Agreement and all applicable government taxes, duties, imposts or levies such as GST;
- (f) comply with all Laws concerning use of the Service;
- (g) give CMOBILE all information and co-operation it may require in relation to the Service;
- (h) not resell, distribute or reproduce any part of the Service;

- (i) notify CMOBILE as soon as You becomes aware of any claim You may have against CMOBILE in relation to the Service.

**2.2** You must not:

- (a) disclose to any person any Confidential Information or security number provided by CMOBILE (including but not limited to Your enquiry number, barring number or PIN); or
- (b) use the Service for any improper, immoral, unauthorised or unlawful purpose or allow any other person to use the Service for such purposes; or
- (c) resupply the Service to any other person without CMOBILE's prior written approval, which approval may be withheld by CMOBILE in its sole discretion; or
- (d) use the CLI or information derived from the CLI except in accordance with the Act; or
- (e) place, attempt or accept a reverse charge call using the Service.

**3. SERVICE SUSPENSION, LIMITATION OR TERMINATION**

**3.1** Subject to applicable Law, CMOBILE may, in its absolute discretion suspend, limit or terminate the provision of the Service if:

- (a) CMOBILE gives You thirty (30) days written notice of its intention to do so, provided only that You have been Connected for a period exceeding the Contract Term; or
- (b) You exceed the Credit Limit; or
- (c) You are in breach of this Agreement; or
- (d) a regulatory authority such as the ACMA or ACCC instructs CMOBILE to do so; or
- (e) there are technical problems with the Service Network which require corrective action by CMOBILE; or
- (f) the use of the Service by any person including You might damage the Service Network; or
- (g) You, or someone acting on Your behalf, informs CMOBILE that You have lost a SIM; or
- (h) CMOBILE has an incomplete record of information about You; or
- (i) CMOBILE reasonably suspects that its record of information about You contains materially incorrect or incomplete information; or
- (j) You:
  - (i) die;
  - (ii) are a partner in a partnership, and the partnership dissolves; or

- (iii) suffer an Insolvency Event;
  - (k) CMOBILE reasonably believes that the Service is being used to commit unauthorised, criminal or unlawful activities; or
  - (l) CMOBILE reasonably believes that You have engaged in fraudulent activities in relation to a Service provided by CMOBILE; or
  - (m) CMOBILE reasonably believes that You have resupplied the Service to another person without CMOBILE's prior written approval; or
  - (n) CMOBILE is required by law to do so, or is requested to do so by a law enforcement agency; or
  - (o) CMOBILE is required to do so under any agreement with a third party or because a telecommunications service is unavailable from a third party; or
  - (p) if You port out a phone number.
- 3.2 Where CMOBILE suspends, limits or terminates the Service under clause 3.1 (b)-(o), CMOBILE will use its reasonable endeavours to provide notice to You.
- 3.3 CMOBILE will promptly suspend the Service if informed by You or someone acting on Your behalf that a SIM has been lost or stolen. However, You are responsible for all Call charges incurred up to the suspension of the Service.
- 3.4 CMOBILE may, but is not required to, suspend or limit the Service provided to You if, in CMOBILE's reasonable opinion, the amount of Call charges accrued on Your account is unusually high. In making this determination, CMOBILE may have regard to matters including:
- (a) Your previous average daily Call spend;
  - (b) the total of Your unbilled Call charges; and
  - (c) any unusual Call spending patterns.

#### **4. DISCLOSURE OF INFORMATION BY CMOBILE**

- 4.1 CMOBILE and/or its agents and service providers may collect Your personal information. CMOBILE collects Your personal information to provide You with personalised mobile telecommunications and information services. CMOBILE may use Your personal information for purposes that are related to providing You with those services which would be reasonably expected by You (including for the purpose of keeping You informed about the features of CMOBILE's services or conducting analysis in order to provide a better service to You).
- 4.2 CMOBILE will provide You with access to Your personal information in accordance with the Privacy Act and the Privacy Policy.
- 4.3 CMOBILE may receive and disclose personal information or documents about You to or from:
- (a) credit providers or credit reporting agencies for purposes permitted under the Privacy Act;

- (b) law enforcement agencies to assist them in the prevention of criminal activity; or
- (c) Financial Institutions for the purpose of preventing fraud and to assist in fraud investigation; or
- (d) our service and content providers, Authorised Dealers and agents, or any company within the CMOBILE group for purposes that are related to providing You with a telecommunications service which would be reasonably expect Us to use that information.

4.4 Unless You consent, CMOBILE will not disclose Your personal information to third parties, other than those who have contracted with CMOBILE to keep the information confidential, or who are subject to obligations to protect Your personal information.

4.5 You acknowledge that any calls made to CMOBILE's customer call centre may be recorded for quality assurance purposes.

## **5. TERMINATION**

5.1 CMOBILE can terminate this Agreement in accordance with clause 3.1.

5.2 Subject to Part D, You may terminate this Agreement at any time upon giving written notice to CMOBILE. If You wish to terminate the Agreement before the completion of the Contract Term, You must pay an early termination fee as set out in Part A.

5.3 Subject to Part D, when issued a notice of a material adverse change by CMOBILE, You may terminate this Agreement during the period specified in the material adverse change notice.

5.4 You acknowledge that a request to port out a phone number does not result in termination of this Agreement. Subject to CMOBILE's termination rights, CMOBILE may assign a new number to the relevant Connection.

## **6. OBLIGATIONS ON TERMINATION**

6.1 On termination of this Agreement, You must:

- (a) return all property to CMOBILE to which CMOBILE has rights (including but not limited to the SIM), whether under this Agreement or under the general law; and
- (b) pay all amounts due to CMOBILE under this Agreement.

6.2 On termination of this Agreement, CMOBILE must refund to You any monies held on account for You after any of Your debts and liabilities have been met under clause 6.1. CMOBILE, in its absolute discretion, may set-off any amounts payable to You until You pay CMOBILE all due amounts.

## **7. ASSIGNMENT**

7.1 You must not transfer or assign any rights and obligations under this Agreement without the prior written permission of CMOBILE, which may be withheld in its absolute discretion.

7.2 If CMOBILE sells or otherwise reorganises its business such that the Services will be supplied by a substantially different Supplier, or using a different Service Network

(**Transfer**), CMOBILE must issue notice to You before Your Service is Transferred informing You:

- (a) that the Service will be Transferred to a new Supplier or Service Network, and the contact details for that new Supplier if relevant;
- (b) any material adverse impact to Your use of the Services, or any equipment used to access the Services expected as a result of the Transfer;
- (c) when the Transfer is likely to be effected;
- (d) the contact details for lodging an enquiry or Complaint about the Transfer; and
- (e) Your rights to terminate the Agreement, any charges for terminating the Agreement, and the period during which notice of termination can be given by You.

7.3 CMOBILE will use reasonable efforts to notify you of the completion of the Transfer on the day on which it occurs.

## 8. REPRESENTATIONS & WARRANTIES

8.1 You represent and warrant that:

- (a) You have provided full and accurate personal information to CMOBILE in connection with this Agreement;
- (b) You have full power and authority to enter into this Agreement; and
- (c) You will take all necessary action to execute, deliver and perform this Agreement in accordance with the terms.

8.2 CMOBILE represents and warrants that:

- (a) it is a carriage service provider under the Act; and
- (b) subject to the terms and conditions of this Agreement, it will provide the Service with all reasonable care and in a timely manner.

## 9. YOUR RIGHTS

9.1 You have rights including the Non-excludable Rights.

9.2 If You have a complaint about the Service (the **Complaint**), You must in the first instance attempt to resolve the Complaint with CMOBILE by contacting CMOBILE Customer Care on 1300 545 000, or by email to [support@cmobile.com.au](mailto:support@cmobile.com.au), or by writing addressed to CMOBILE PTY LTD, PO Box 367, Winston Hills NSW 2153.

9.3 In all cases, CMOBILE will acknowledge the Complaint in accordance with Chapter 8 of the TCP.

9.4 CMOBILE must attempt to resolve the Complaint in accordance with the Complaint Handling Policy, and the requirements of the TCP.

9.5 If the Complaint is not resolved after contacting CMOBILE in accordance with clause 9.2, You may contact the TIO by calling 1800 062 058, or visiting their website at [www.tio.com.au](http://www.tio.com.au), by sending a fax to 1800 630 614, or by writing the TIO at PO Box



276, Collins Street West, VIC 8007, or You can contact the ACCC or the Office of Fair Trading in the Customer's relevant State or Territory.

## **10. TITLE**

Except for any SIM, property in any goods which You take possession of under this Agreement passes to You on the first payment by You of monies to CMOBILE unless otherwise provided by the Part D.

## **11. LIMITATION OF LIABILITY**

11.1 To the full extent permitted by law and subject to clause 11.3, CMOBILE excludes all liability including any Consequential Loss under or in connection with this Agreement or the supply of the Service except to the extent that You suffer direct loss or damage (excluding Consequential Loss) as a result of any negligent act or omission of CMOBILE under or in connection with this Agreement.

11.2 Notwithstanding clause 11.1, CMOBILE's maximum liability under or in connection with this Agreement or the supply of the Service will not exceed the total of the fees and charges paid by You under this Agreement:

- (a) if the time between the commencement date of this Agreement and the date of the Claim is 6 months or more - during the 6 month period immediately preceding the date of the Claim; or
- (b) if the time between the commencement date of this Agreement and the date of the Claim is less than 6 months - during the period from the commencement date of this Agreement to the date of the Claim.

### **11.3 Non-excludable Rights**

- (a) Our goods come with guarantees that cannot be excluded under the Australian Consumer Law. You are entitled to a replacement or refund for a major failure and for compensation for any other reasonably foreseeable loss or damage. You are also entitled to have the goods repaired or replaced if the goods fail to be of acceptable quality and the failure does not amount to a major failure.
- (b) CMOBILE does not exclude any Non-excludable Rights including without limitation the guarantees set out in clause 11.3(a), but does exclude and You cannot rely on all other conditions, representations and warranties implied by custom, law or statute other than those expressly contained in this Agreement.
- (c) CMOBILE's liability in respect of any Non-excludable Right is limited, at CMOBILE's option, to:
  - (i) in the case of goods,
    - A. the replacement of the goods or the supply of equivalent goods;
    - B. the repair of the goods;
    - C. the payment of the cost of replacing the goods or acquiring equivalent goods;

D. the payment of the cost of having the goods repaired.

(ii) in the case of services,

A. the supply of the services again; or

B. the payment of the cost of having the services supplied again.

## **12. INDEMNITY**

12.1 You indemnify CMOBILE against all claims, actions, damages, losses, liabilities, costs, charges, expenses, outgoings or payment which CMOBILE pays, suffers or incurs, or is liable for in respect of Your use of the Service or the Service Network.

12.2 Clause 12.1 does not apply to any claim, action, damage, loss, liability, cost, charge, expense, outgoing or payment which CMOBILE pays, suffers, incurs, or is liable for as a result of the wilful misconduct or reckless act or omission of CMOBILE.

12.3 The indemnity in this clause 12 is a continuing obligation of You which will continue despite:

(a) any settlement of account;

(b) the termination of this Agreement; or

(c) the occurrence of any other thing,

and remains in full force and effect until all monies owing by You to CMOBILE have been paid in full.

## **13. SEVERABILITY**

The invalidity or unenforceability of any provision (or any part thereof) of this Agreement will not affect or prejudice the validity or enforceability of the remainder of this Agreement.

## **14. WAIVER**

14.1 No waiver of any of the terms of this Agreement will be valid unless in writing and signed by or on behalf CMOBILE.

14.2 No relaxation, delay, forbearance or indulgence of CMOBILE in exercising or enforcing nor any failure by CMOBILE to exercise or enforce any rights conferred upon it by this Agreement will be deemed a waiver of any such right or operate so as to bar the exercise or enforcement of such right at any time or times thereafter. A

## **15. VARIATION**

15.1 The terms of this Agreement, a Call Plan and any features of the Services may be modified, added to or withdrawn by CMOBILE at any time.

15.2 In circumstances where a variation of this Agreement could reasonably be expected to have a material adverse affect on You, CMOBILE will provide You with reasonable notice of the Variation. The notice given by CMOBILE for a material adverse change to your Service will set out Your rights to terminate the Agreement, any charges for

terminating the Agreement, and the period during which notice of termination can be given by You.

15.3 If you do not terminate the Agreement within the material adverse change notice period, you will be deemed to have accepted the variation and be bound by the terms of the Agreement as varied.

15.4 If we reasonably consider that a change to this Agreement is likely to benefit You or is not detrimental to You, We may make the change immediately and are not required to tell You. We suggest You review the Standard Agreement periodically.

## **16. STANDARD FORM OF AGREEMENT**

This Agreement constitutes a Standard Form of Agreement with the meaning of the Act.

## **17. GOVERNING LAW AND JURISDICTION**

17.1 This Agreement is governed by the laws of New South Wales.

17.2 Each party irrevocably submits to the non-exclusive jurisdiction of the courts of New South Wales.

## **18. AGENCY**

You appoint CMOBILE as Your agent for the purposes of completing a Customer Authorisation Form on Your behalf.

## **PART D – SERVICE SPECIFIC TERMS AND CONDITIONS**

### **1. COMMENCEMENT AND TERMINATION**

- 1.1 This Agreement starts when Your Service is first Connected to the Service Network, and terminates when Your Service is Disconnected from the Service Network.

### **2. FEES AND CHARGES**

- 2.1 CMOBILE will invoice You once every month, and You must pay all outstanding amounts not more than 14 days from the date of the invoice.
- 2.2 The invoice which CMOBILE provides to You will be in a standard form. If You require a different form of invoice, You must pay any applicable charges. To enable You to verify Your use of the 3G/GSM Service, Call records and other relevant billing information will be clearly itemised on the invoice in accordance with the billing requirements set out in Chapter 5 of the TCP.
- 2.3 CMOBILE may vary its fees and charges from time to time. You acknowledge that before entering into this Agreement You have seen a copy of CMOBILE's current fees and charges. You may obtain a copy of CMOBILE's current fees and charges, by contacting CMOBILE at any time.
- 2.4 You must remain Connected to the Service Network for the Contract Term or pay an early termination fee set out in Part A.
- 2.5 If CMOBILE imposes a Credit Limit and You exceed the Credit Limit, CMOBILE may suspend, or limit the Service until You pay all outstanding fees and charges.
- 2.6 CMOBILE may require You to pay a security deposit if You intend to use Value-Added Services. If You pay CMOBILE a security deposit, CMOBILE may apply the deposit, or any part of it, in payment of any outstanding fees and charges for the Service.
- 2.7 If You do not pay CMOBILE's invoices on time for two successive months, CMOBILE may require You to pay its accounts by direct debit or registered credit card for the term of this Agreement. You must not cancel that direct debit or credit card authority, without CMOBILE's agreement in writing. If You cancel the direct debit or credit card authority in breach of this clause, CMOBILE may exercise its rights under Part C, and You will become liable for any extra charges determined by CMOBILE in accordance with Part A.
- 2.8 CMOBILE may pay an Authorised Dealer or agent a commission for introducing You to the Service.

### **3. YOU ARE RESPONSIBLE FOR MONITORING CALL CHARGES**

- 3.1 You have a personal responsibility to monitor Your use of the 3G/GSM Services to ensure that You do not overcommit yourself financially. You are liable for all Calls made or received using Your 3G/GSM Service.
- 3.2 To assist You to monitor Your own use of 3G/GSM Services, CMOBILE provides a 24x7 secure online facility providing You with access to Your billed and unbilled Call

usage. The facility is known as My CMOBILE, and can be accessed at [www.cmobile.com.au](http://www.cmobile.com.au).

- 3.3 Alternatively You can contact CMOBILE customer care on 1300 545 000, or by email to [support@cmobile.com.au](mailto:support@cmobile.com.au), or by writing addressed to CMOBILE PTY LTD, PO Box 367, Winston Hills NSW 2153.
- 3.4 CMOBILE will use reasonable efforts to contact You when we discover abnormal usage or a significantly higher pattern of usage. In accordance with Part C and this Part D, we may suspend or limit Your Service if we cannot contact You promptly. You should not rely solely on CMOBILE to contact You about high Call usage, as You have a personal responsibility to control Your financial commitment to CMOBILE.
- 3.5 Call records are normally received within 48 hours of the Calls being made or received. In some circumstances, such as temporary system delays, the Call records may take longer to process and appear in CMOBILE's billing system. Call records for Special Calls and International Roaming may take up to seven (7) days before they are available in CMOBILE's billing system. You must monitor Your ongoing use of the Services, keeping in mind the normal delays in CMOBILE receiving and processing Call records from the Service Networks, from premium services providers, and from overseas networks.

#### **4. CUSTOMER DISCONNECTION FROM CMOBILE**

- 4.1 You must not Disconnect from the Service Network until:
- (a) the Contract Term has expired, or You have given written notice of termination and paid the early termination fee set out in Part A; and
  - (b) You have otherwise satisfied the terms of this Agreement.
- 4.2 If You wish to be Disconnected from the Service Network at the end of the Contract Term, or at any time after the Contract Term, You must provide CMOBILE with written notice. On receipt of such notice, the Connection will be Disconnected at or prior to the conclusion of the Customer's current monthly billing cycle for the Service.

#### **5. PROHIBITION ON RESUPPLY**

- 5.1 You must resell or resupply the 3G/GSM Service to any person.

#### **6. USE OF 3G/GSM SERVICE**

- 6.1 You must not use the 3G/GSM Service:
- (a) in contravention of any Law; or
  - (b) in any manner that is indecent, obscene or otherwise offensive, menacing, threatening or abusive; or
  - (c) in any manner that is defamatory or tortious or infringes the rights of any third party; or

- (d) in a way that interferes with the use of the 3G/GSM Services by other customers of CMOBILE, or the relevant Service Network.
- 6.2 You agree that the following terms and conditions apply to Your use of the Service Network:
- (a) You are responsible for all equipment and software necessary to use the Service Network, as well as for the security and integrity of any information You transmit or receive; and
  - (b) You acknowledge that CMOBILE does not check and is not obligated to monitor the content of information or material available from the Service Network or the Internet, and that CMOBILE is not liable for Loss suffered by You or any other person as a result of using information or material obtained using the Service Network or the Internet, including, but not limited to, Loss caused by a virus.

## **7. IMMEDIATE DISCONNECTION OF SERVICE**

You agree that CMOBILE may immediately disconnect Your SIM if CMOBILE has reason to suspect that:

- (a) the SIM is being used in a device that is not approved by CMOBILE (such as a SIM box or similar device); or
- (b) fraudulent or illegal activity is, or will be, conducted using the relevant SIM.

## **8. FAIR USE POLICY**

8.1 It is important that all CMOBILE customers are able to access 3G/GSM Services. Accordingly, this Fair Use Policy applies to:

- (a) use of 3G/GSM Services; and
- (b) any promotions or Services which are advertised by us as subject to the Fair Use Policy (Fair Use Promotion).

8.2 CMOBILE reserves the right to vary the terms of the Fair Use Policy from time to time.

8.3 CMOBILE may rely on the Fair Use Policy where:

- (a) Your use of 3G/GSM Services represents Unreasonable Use; or
- (b) Your participation in a Fair Use Promotion represents Unreasonable Use.

## **9. UNREASONABLE USE**

9.1 Unreasonable Use means the use of the 3G/GSM Service where Your use of the 3G/GSM Service is reasonably considered by CMOBILE to be fraudulent, or to adversely affect the Service Network, or other Customers' use of or access to a Service or the Service Network.

- 9.2 Unreasonable Use in respect of a Fair Use Promotion is where Your participation in a Fair Use Promotion is reasonably considered by CMOBILE to be fraudulent, or to adversely affect the Service Network, or another Customer's use of or access to a Service or the Service Network.
- 9.3 Without limitation, fraudulent use includes resupplying a Service without CMOBILE's consent so that someone else may access or use the 3G/GSM Service or take advantage of a Fair Use Promotion.

## **10. CONSEQUENCES OF UNREASONABLE USE**

- 10.1 Where there is a breach by You of this Fair Use Policy, CMOBILE may contact You to discuss how to change Your use of the 3G/GSM Service so that it conforms to the Fair Use Policy.
- 10.2 If, after we have contacted You, and Unreasonable Use continues, CMOBILE may, without further notice to You:
- (a) suspend or limit the 3G/GSM Services (or any feature of it) for any period CMOBILE believes is reasonably necessary; or
  - (b) terminate the 3G/GSM Service Agreement and Disconnect the SIM.

## PART E – DICTIONARY

### 1.1 Definitions

**3G Service** means the digital mobile telecommunications network service that utilises Universal Mobile Telecommunications Service as standardised by the European Technical Standards Institute, using the Vodafone Mobile Network for the CMOBILE C Red plans or using Part of Telstra’s Mobile Network for the CMOBILE C Blue plans as described in Part A.

**3G/GSM Service** means the combined 3G Service and GSM Service available using the Vodafone Mobile Network for the CMOBILE C Red plans, or the combined 3G Service and GSM Service using Part of Telstra’s Mobile Network for the CMOBILE C Blue plans.

**3G/GSM Service Area** means the coverage area of the Vodafone Mobile Network for the CMOBILE C Red plans, or the coverage area of Part of Telstra’s Mobile Network for the CMOBILE C Blue plans. The coverage area may be reduced if a compatible handset capable of accessing GSM Services at 900/1800 MHz and 3G Services at 850 MHz/2100 MHz is not used.

**ACCC** means the Australian Competition and Consumer Commission.

**ACMA** means the Australian Communications and Media Authority.

**Act** means the *Telecommunications Act 1997 (Cth)*.

**Agreement** means this Standard Agreement, comprising this Dictionary, Part A – Service Description, Part B – CMOBILE Call Plans, Part C – General Terms and Conditions, and Part D - Service Terms and Conditions, which forms the entire agreement between CMOBILE and the Customer.

**Australian Consumer Law** means Schedule 2 of the CCA.

**Authorised Dealer** means a channel partner of CMOBILE authorised by CMOBILE under a formal agreement to sell compatible handsets and devices to Customers, market the Services to Customers, and facilitate Connection of Customers on behalf of CMOBILE.

**Call** includes without limitation Voice, Messaging or Data Call Types or a combination of those Call Types as the case may dictate.

**Call Plan** means the call plan for the Service, as set out in Part B of this Agreement.

**Call Rates** means the call rates for Call Types set out in a Call Plan.

**Call Type** means the type of usage used in conjunction with the 3G/GSM Service. Applicable categories of call types used in conjunction with a 3G/GSM Service include Voice, Messaging and Data call types.

**CCA** means the *Competition and Consumer Act 2010 (Cth)*.



**Claim** means any claim, action, proceeding, judgment, damage, loss, expense or liability, including legal costs, whether direct or indirect, however calculated.

**CLI** means calling line identification.

**CMOBILE** means CMOBILE PTY LTD ABN 53 158 824 447.

**Complaint** has the meaning set out in the TCP.

**Complaint Handling Policy** means the policy for handling Complaints developed by CMOBILE in accordance with the requirements of the TCP.

**Confidential Information** means all confidential information about the Service, CMOBILE, its Related Bodies Corporate, the Service Network, or the Customer, which is or has been disclosed under or in connection with this Agreement or learnt or acquired in the performance of this Agreement, other than any such information which:

- (a) was in the public domain at the time of its provision, otherwise than through a disclosure in breach of this Agreement; or
- (b) is or lawfully came into the possession of the other party otherwise than as a result of a disclosure in breach of this Agreement.

**Connection** means the activation of the Service. **Connected** has a corresponding meaning.

**Connection Fee** means Flagfall.

**Consequential Loss** includes:

- (a) indirect loss and special damages;
- (b) loss of revenue;
- (c) loss of profits;
- (d) loss of business;
- (e) loss of anticipated savings;
- (f) loss of goodwill;
- (g) loss of data;
- (h) claims of third parties; and
- (i) loss or costs associated with any of the above.

**Contract Term** in respect of a Call Plan means the applicable minimum contract term specified in Part B of this Agreement.

**Credit Limit** means the maximum credit, where applicable, provided by CMOBILE for the Service.

**Critical Information Summary** has the meaning set out in Chapter 4 of the TCP.

**Customer** means the person who uses the Service.

**Customer Authorisation Form** means a form authorising a phone number to be ported.

**Data** in the context of a Call Type, means a service designed to transfer data over IP between end users or applications. Data services are normally charged both for data received on the Service Network (downloads), and data sent on the Service Network (uploads). Data charges may apply in addition to the charges for use of any other Call Types which rely on data services for their operation.

**Disconnection** means the disconnection of a Connection. **Disconnected** has a corresponding meaning.

**Fair Use Policy** means the policy for fair use of the 3G/GSM Service set out on Part D.

**Financial Institutions** has the meaning set out in the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth).

**Flagfall** means the amount charged by Us for initiating a voice or video call, also known as Connection Fee, and which is charged in addition to the amount charged by Us for the duration of the voice or video call.

**Free and Local Rate Numbers** means numbers which when dialled from a PSTN network in Australia are free (1800 dialled prefix), or a supplied at the rate for a local call (13/1300 dialled prefix). For the avoidance of doubt, unless expressly stated by CMOBILE calls to these numbers using the 3G/GSM Service will be charged at the rates set out in the Call Plan.

**GSM Service** means the GSM based digital mobile telecommunications service provided using the Vodafone Mobile Network for the CMOBILE C Red plans, or the GSM based digital mobile telecommunications service provided using part of Telstra's Mobile Network for the CMOBILE C Blue plans as described in Part A.

**GST** means any tax on goods or services and other things in force in Australia from time to time under the GST Legislation.

**GST Legislation** means *A New Tax System (Goods and Services Tax Imposition - General) Act 1999* (Cth) as varied or replaced from time to time.

**GST Rate** means the prevailing rate of GST payable in accordance with the GST Legislation.

**Included Call Value** means the value of Call charges included within the Minimum Monthly Fee for a Call Plan as the case dictates. For the avoidance of doubt, the Included Call Value may include various categories of usage including Voice Calls,

Messaging Calls or Data Calls. In some Call Plans, the Included Call Value may be broken out into different categories based on the Call Type.

**Insolvency Event** means the happening of any of the following events in relation to a party:

- (a) if a natural person, it becomes bankrupt or insolvent;
- (b) if a company:
  - (i) a liquidator, provisional liquidator, official manager, company administrator, administrator, receiver, manager, or receiver and manager or similar officer is appointed in respect of it;
  - (ii) it enters into, or resolves to enter into, a scheme of arrangement or composition with or assignment for the benefit of, or it proposes a reorganisation, moratorium or other administration, involving its creditors or a class of its creditors;
  - (iii) it enters into a deed of company arrangement;
  - (iv) it resolves to wind itself up or otherwise dissolve itself, or gives notice of intention to so resolve, except by way of bona fide solvent reconstruction or amalgamation on terms approved by the other party;
  - (v) it suspends payments of its debts generally; or
  - (vii) it is or becomes unable to pay its debts when they are due or becomes unable to pay its debts within the meaning of the *Corporations Law*, or is presumed to be insolvent under the *Corporations Law*.

**International Roaming** means use of a mobile service on another carrier's network outside of Australia to make or receive Calls or to access mobile services.

**IP** means Internet Protocol.

**Law** means any:

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

**M2M Use** in the context of a CMOBILE C Blue plan, means machine-to-machine use where a device initiates a communication without the involvement of a person (for example, the delivery of wireless packet data from a vending machine to another machine or application, or the transmission of an SMS message from a burglar alarm system to another person or system). M2M Use does not include Data communication initiated by a mobile handset or wireless broadband device that is ancillary to the use of that handset or device by a person (for example, a handset checking for new e-mail messages).

**Messaging** in the context of a Call Type, includes without limitation short message services (SMS) and multi-media messages (MMS).

**Minimum Monthly Fee** means the minimum monthly fee payable by a Customer Connected to a Call Plan.

**Monthly Access Charges** means Minimum Monthly Fee.

**Non-excludable Rights** means rights and remedies conferred on a party by the *Consumer and Competition Act 2010* (Cth) and similar legislation which cannot be excluded, restricted or modified.

**Part of Telstra's Mobile Network** means the 3G/GSM based wholesale telecommunications network operated by Telstra Corporation Limited used to provide the 3G/GSM service.

**PIN** means a personal identification number used to access the Service, or any part of the Service.

**Privacy Act** means the *Privacy Act 1988* (Cth) as varied or replaced from time to time.

**Privacy Policy** means the privacy policy of CMOBILE as varied or replaced from time to time, and made available to Customers by contacting CMOBILE customer care on 1300 545 000 or by download from the website [www.cmobile.com.au](http://www.cmobile.com.au).

**PSTN** means a public switched telecommunications network, alternatively described as a fixed network.

**Re-connected** means the re-activation of a Connection which has been Disconnected. **Reconnection** has a corresponding meaning.

**Related Body Corporate** has the meaning given to the term in the *Corporations Law*.

**Roaming** means where a Customer uses a mobile service on another carrier's network to make calls or access mobile services either within Australia or outside Australia. Roaming charges normally apply for all inbound usage (Call termination) in addition to any outbound usage (Call origination). Roaming normally incurs charges that are significantly higher than for use of the 3G/GSM Service, and Call records take can take a number of days to be made available to CMOBILE by the Roaming network. Roaming relies on the networks of other carriers over which CMOBILE has no control. CMOBILE cannot guarantee the quality and reliability of mobile services when a Customer is Roaming.

**Service** means the 3G/GSM Service, and for the avoidance of doubt, excludes any Roaming.

**Service Network** means the Vodafone Mobile Network for the CMOBILE C Red plans, or Part of Telstra's Mobile Network for the CMOBILE C Blue plans.

**SIM** means the subscriber identity module card, to be used with a handset to enable use of the 3G/GSM Service.

**SMS** means short message service.

**SMSIP Use** means the use of an application to send SMS over a Data service using IP.

**Special Calls** means special Calls available with the 3G/GSM Service to approved Customers, as described in Part A of this Agreement.

**Standard Agreement** has the meaning given to the term by Part 23 of the Act.

**Tax Invoice** means an invoice which complies with the requirements for such an invoice under the GST Legislation.

**Taxable Supply** has the meaning given in the GST Legislation.

**TCP** means C628:2012 *Telecommunications Consumer Protection Code* registered by ACMA on 1 September 2012.

**TIO** means the Telecommunications Industry Ombudsman.

**Unreasonable Use** has the meaning set out in Part D.

**Value Added Services** means the value added services available with the 3G/GSM Service generally, as described in Part A of this Agreement.

**Vodafone Mobile Network** means the 3G/GSM based telecommunications network operated by Vodafone Network Pty Limited used to provide the 3G/GSM Service, using Vodafone's GSM and 3G network and capabilities.

**Voice** in the context of a Call Type, means a service designed to transfer voice over a voice channel between end users using digital or analogue voice codecs. Outbound voice Calls are usually made by direct dialling a telephone number, and inbound voice Calls are usually received by answering a voice Call which has dialled the Customer's telephone number. For the sake of doubt, VOIP and Video calls are Data Call Types.

**VOIP** means voice over IP, and in the context of a Call Type, is a Data service designed to transfer voice over a Data channel between end users. VOIP calls are usually made by using a software application on the handset in conjunction with a Data service to transfer voice as Data between end users.

**We, Us, Our and CMOBILE** means CMobile Pty Ltd ABN 53 158 824 447.

**You** means the Customer entering into this Standard Form of Agreement. **Your** and **Yourself** have a corresponding meaning.

## **1.2 Interpretation**

In this Agreement, unless the context otherwise requires:

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