

# SMALL BUSINESS CUSTOMER TERMS



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## 1. ABOUT OUR SMALL BUSINESS CUSTOMER TERMS

### Who do the “Small Business Customer Terms” apply to?

- 1.1 You are a small business customer, and these Small Business Customer Terms apply to you, if:
- you are a business or non-profit organisation (including a body corporate, sole trader, partnership, trust or registered charity);
  - you did not have a genuine and reasonable opportunity to negotiate the terms of your agreement with us;
  - you have, or will have, an annual spend that is less than, or reasonably expected by us to be, less than \$40,000; and
  - the primary purpose for using the service is for business use.

### Variation of our Small Business Customer Terms

- 1.2 We may unilaterally vary our Small Business Customer Terms at any time.

### Telecommunications legislation

- 1.3 Pursuant to the *Telecommunications Act 1977*, we may contract with our customers by way of a standard form of agreement or on an individual basis. These Small Business Customer Terms are our ‘standard form of agreement’, and they apply to all small business customers who acquire our service.
- 1.4 Pursuant to the *Telecommunications Act 1977*, we must advise you directly or publish an advertisement if we change our Small Business Customer Terms and that change would cause detriment to you.
- 1.5 If a change to our Small Business Customer Terms does not cause detriment to you, we may make the change without having to advise you directly or publish an advertisement.

## 2. BECOMING A CMOBILE CUSTOMER

### Your application

- 2.1 When you apply for a CMobile service, we consider:
- your credit history and ability to pay the charges for your service;
  - the availability of the service networks in the area(s) in which you intend to use the service; and
  - your eligibility for the service.
- 2.2 Notwithstanding the above, we may decline your request for a service in our sole discretion and are not required to provide you with the reasons for doing so.

### Connecting your service

- 2.3 We will try to connect your service within a reasonable time.
- 2.4 In the case of mobile number portability, numbers may only be ported during our business hours and porting may not be immediate. We will request to port your number within a reasonable time of your request.
- 2.5 We are not liable to you for any delay caused by a delay in porting your number.

### Transferring your service

- 2.6 You may only transfer your service if we consent to such transfer in writing.

## 3. THE CMOBILE SERVICE

### The Service

- 3.1 The CMobile service provides you with access to a 3G/4G public mobile telecommunications service that we provide using the Vodafone mobile network (for CRed plans) and parts of the Telstra mobile network (for CBlue plans) (the **service networks**). The service is available to you within the coverage areas of the service networks. We may introduce further services in the future (for example, 5G) but are not obliged to do so.
- 3.2 The service is provided to you by CMobile Pty Ltd (ABN 53 158 824 447), and our contact details are set out in clause 3.8 and on our website. We are authorised to provide you with a service using the Vodafone or Telstra networks as set out in clause 3.1. For the avoidance of doubt, we are solely responsible to you for the service, and we are not affiliated with or related to Vodafone or Telstra.

### The CBlue service

- 3.3 To use the full coverage and capabilities of the CBlue plans, you must have a handset or device capable of accessing 3G Services at 850MHz and/or 4G Services at 700MHz, 1800MHz or 2600MHz.

### The CRed service

- 3.4 To use the full coverage and capabilities of the CRed plans, you must have a handset or device capable of accessing 3G Services at 900MHz and/or 4G Services at 850MHz, 1800MHz or 2100MHz.

### Connection and activation of your CMobile service

- 3.5 Upon acceptance of your application by us, we will create an account for you. Once your account has been created, we will provide you with the purchased number of SIM cards.
- 3.6 We will activate each SIM card within 24 hours of being directed by you to do so and only during our standard business hours, unless otherwise agreed by you and us.
- 3.7 Billing will commence from the date of activation irrespective of when the service is first used. You are liable for the cost, if any, of the SIM card even where that SIM card is not used unless the SIM card is returned to us in its original condition.
- 3.8 You may activate your SIM card(s) by:
  - (a) completing the online form on our website [www.cmobile.com.au](http://www.cmobile.com.au);
  - (b) emailing us at [support@cmobile.com.au](mailto:support@cmobile.com.au);
  - (c) calling us in 1300 545 000; or
  - (d) completing an agreed bulk porting form.
- 3.9 If your CMobile service requires us to port an existing mobile number from another mobile service provider, we will use reasonable endeavours to process the port within 24 hours of your request. Porting may only occur during our standard business hours, unless otherwise agreed by you and us. We will confirm with you when your port has been successful or unsuccessful, including providing details when a port has failed.
- 3.10 You agree that CMobile does not own nor control the porting system and that once a port is submitted, we are not liable for any delays, unless we cause or contribute to those delays. We are also not liable for delays caused by your failure to provide correct porting details or for the losing service provider providing you with incorrect porting details.

### International Roaming

- 3.11 International roaming is available to you upon request and subject to any conditions we may require as part of our consent to provide the service, including but not limited to the payment of

a security deposit. We may refuse to activate international roaming in our absolute discretion and are not required to provide you with reasons for any such refusal. To activate international roaming, please contact us at least 3 business days prior to departure.

- 3.12 International roaming is charged at the rate charged by the relevant overseas carrier(s) plus a CMobile charge. You will incur, and are liable for, international roaming charges for all use of the service while roaming, including both outgoing and incoming services.
- 3.13 All incoming calls and SMS received while roaming including, without limitation, voice, messaging and data calls, will incur data roaming charges. Any data usage will incur data roaming charges.
- 3.14 You acknowledge that international roaming is expensive and you should only request access to it if you have the financial capacity to pay for the service you use and diligently monitor your usage while roaming in order to avoid high charges.

## 4. YOUR USE OF THE CMOBILE SERVICE

### Permissible use of our service

- 4.1 You must:
  - (a) only use the service for business or personal purposes;
  - (b) comply with all laws concerning your use of the service; and
  - (c) provide CMobile with all information reasonably requested in order to supply the service to you.
- 4.2 You must not, or allow anybody else to:
  - (a) resell, resupply or reproduce any part of the service;
  - (b) use the service to commit an offence;
  - (c) use the service for any improper, immoral, unauthorised or unlawful purpose;
  - (d) use the service in a manner that is indecent, obscene or otherwise offensive, menacing, threatening or abusive; or
  - (e) use the service in a way that interferes with, or threatens to interfere with, the efficiency of the service networks.

### Your responsibility for use of our service

- 4.3 You are responsible for all use of the service, including all associated charges, whether or not such use is authorised by you or your employees or end users. In the case of a stolen device or SIM card, you are liable for all charges incurred up to the time we confirm suspension of the service upon being notified by you to suspend the service. You will continue to remain liable for access fees while the service is suspended.
- 4.4 You are responsible for use of the service, including all associated charges, in cases where a device has been used incorrectly or is faulty.
- 4.5 You are responsible for monitoring usage of your service and we do not agree to monitor your service for excessive or unusual use. You can view your billed and unbilled call usage from our secure online facility MyCMobile, available from [www.cmobile.com.au](http://www.cmobile.com.au).
- 4.6 Call and data records are normally received within 48 hours of the service being used. In some circumstances, we may not receive call records from our service network suppliers within 48 hours and/or call records may take longer to appear in our billing system. Call records from overseas network providers (when roaming internationally) and premium service providers will take longer than 48 hours to be available. You are liable for such charges irrespective of when they are billed.
- 4.7 You acknowledge that we do not monitor, nor are we obligated to monitor, the contents of information or material available from the service networks or the internet. You agree that we are

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not liable for any loss suffered by you or any other person as a result of using information or material obtained using the service networks or the internet.

## Excessive or unusual use

- 4.8 We may, but are not required to, suspend, or cancel your service if it is used in an excessive or unusual way. We may also suspend or cancel your service if it is used in an excessive or unusual way where we are required to do so pursuant to a lawful direction from a regulator, our service network suppliers, or where required by law.
- 4.9 You are liable for all charges incurred from excessive or unusual usage even in the case of suspension or termination of the service.

## Devices

- 4.10 You can only use the SIM cards we supply to you with handsets and devices that have been approved by us for use on the service networks.

## Faults

- 4.11 You may alert us to mobile service faults by contacting us, however you acknowledge that we do not own, nor have control over, the service networks. We will provide you with as much information regarding faults, including the anticipated restoration time, as is available to us.
- 4.12 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) we do not warrant the 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 available.

## Fair Use policy

- 4.13 Our Fair Use Policy is intended to ensure that our customers do not use our service in a way that is excessive, unreasonable or fraudulent, or used in connection with a device or equipment that is not approved by us.
- 4.14 The services we make available to you are intended for business or corporate customers to use for their own business or personal use. Generally, legitimate use of our services for their intended purposes for which they are sold to you will not breach our Fair Use Policy.
- 4.15 You must not resell or commercially resupply our services or SIM cards. You must not re-route call traffic in order to disguise the originating party or for the purposes of resale.
- 4.16 We consider the following to be excessive and not for ordinary business or personal use:
- (a) using more than 2,500 minutes each month on any mobile service;
  - (b) sending more than 100 SMS messages from a mobile service each day; and
  - (c) using more than 200GB of data on a service for 2 consecutive months.
- You must notify us if your intended and legitimate personal or business use is likely to be considered excessive.
- 4.17 You must not use the service in a way that is unreasonable. We consider unreasonable usage to occur when the service is used fraudulently or in a manner that causes significant network congestion.

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4.18 If you are in breach of the Fair Use Policy, we will contact you in writing. If you do not remedy the breach within 14 days, we may limit, suspend or cancel your service(s) in our sole discretion.

## 5. SIM CARDS

5.1 To use our service, you must use a SIM card we provide you in your handset or device. You are liable for the cost of the original SIM card and any replacement SIM cards.

5.2 The SIM remains the property of CMobile and must be returned to us upon request.

5.3 You must keep the SIM safe and in good condition.

## 6. MOBILE PHONE NUMBERS

### Allocating mobile phone numbers

6.1 Unless you request to port an existing mobile number from another service provider, we will allocate a mobile number at random to your service upon activation of your service.

6.2 You may request that we provide you with a list of numbers available for use so you can choose a particular mobile phone number from that list.

6.3 Where you have selected a number, you must activate the service within 2 months, otherwise the number will be returned to our database of available numbers.

6.4 The Telecommunications Number Plan sets out rules for issuing, transferring and changing mobile numbers. You and we must comply with the Telecommunications Number Plan.

6.5 You agree that you do not own or have any legal interest or goodwill in any mobile number issued to you. You are entitled to continue to use any mobile number we issue to you, except in circumstances where the Telecommunications Number Plan allows us to recover the number from you, or where we transfer the number pursuant to clause 10.2.

6.6 You can transfer a mobile number to another person if you get our consent first. A charge of \$10 per transfer applies to all transfers.

### Changing mobile phone numbers

6.7 You may ask us to change your mobile phone number at any time. Except where you have a genuine need to change your number that is outside your control (in which case there will be no charge), a fee of \$20 (incl. GST) will apply.

### Contacting you

6.8 You acknowledge and agree that we may notify you of matters relating to a particular service via SMS to that service, and that usage alerts are sent to each individual service.

### Mobile Number Portability

6.9 We provide you with Mobile Number Portability (**MNP**) should you wish to port your mobile service to CMobile from another service provider. MNP allows you to port your number from your existing mobile service provider to another service provider. You can only port active mobile numbers.

## 7. BILLING AND PAYMENT

### Charges

7.1 The charges for your service are set out in:

(a) for IoT and M2M customers, the Plan Inclusions and Charges which will be provided as a schedule to these Small Business Customer Terms (**Plan Inclusions**), or if no schedule is provided, as set out on our website at [CMobile M2M & IoT Plans](#);

(b) for all other small business customers, the Customer Information Summaries available on our website; and

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(c) these Small Business Customer Terms.

In the event of any inconsistency between these Small Business Customer Terms, the Plan Inclusions or the Customer Information Summaries, the order of priority is as set out above.

- 7.2 You are liable for all charges incurred by a service whether or not you authorised the usage.
- 7.3 If you use your service to access a third-party service and we are charged for that service, you must pay us for that service. Any dispute you have with the third-party service provider is between you and that provider and does not relieve you of your obligation to pay us for any charges we incur from that third-party provider due to your use of their service.

## Bills

- 7.4 We will issue you one bill each month on or around the first business day of the month. We may issue you an interim bill where your charges are considerably higher than in previous months and we reasonably believe such usage poses a credit risk.
- 7.5 Each bill will include, for each service on your account:
- (a) an access fee, charged in advance;
  - (b) excess usage fees and fees for services not included in your plan, charged in arrears; and
  - (c) any fees for special or unusual charges, such as those incurred from a third-party provider, charged in arrears.
- 7.6 For CRed Plans, including IoT and M2M Plans, billing commences on the first calendar day of each month and ends on the last calendar day of each month. For CBlue Plans, billing commences on the 28<sup>th</sup> of each month and ends on the 27<sup>th</sup> of the following month.
- 7.7 You must pay each bill by the 15<sup>th</sup> day of each month.
- 7.8 Part payments will be allocated to the debt incurred earliest in time.
- 7.9 We aim to include all charges relating to the most recent billing period on your bill. We may, however, include charges from previous billing periods where there has been a delay in receiving your call records from our service providers.
- 7.10 Our records are sufficient proof that a charge is payable by you unless the records are shown to be incorrect.
- 7.11 Where you believe that charges in a bill are incorrect, you must notify us within 12 months of the bill being issued.
- 7.12 You must pay our bills via BPay or credit card. As we are an online business, we do not accept cash or cheque.

## Credit limit

- 7.13 We may impose a credit limit in the case of a new service, or in circumstances where you have paid your bill more than 15 days late for two consecutive months. If you exceed the credit limit, we may suspend your service until all outstanding charges are paid.

## Prepayment

- 7.14 We may require you to prepay for services where you have notified us that you will be using the service for international roaming or any other usage which incurs higher charges.

## Late payments

- 7.15 If you do not pay your bill on time, we will send notifications via SMS or email alerting you to the non-payment of your bill. Continued failure to pay your bill in full may result in a late payment fee of \$10 and suspension, restriction or cancellation of your account in accordance with the terms below on suspension or cancellation of your service.



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## Credit card payments

7.16 If you pay your bill via credit card, we may charge you a credit card processing fee if specified in the Plan Inclusions or Customer Information Summary and stipulated on your bill.

## Adjustments

7.17 We can round charges up or down to the nearest whole cent (0.5 is rounded up).

7.18 We can pay you any amounts we owe you by deducting them from any amounts you owe us. You must pay us without any set-off, counter claim or deduction.

7.19 Where you have paid us for a service in advance or your account is in credit and the service is cancelled, we will refund you any overpayment following the issue and payment of your final bill.

## GST

7.20 If GST is imposed on any supply we make to you, and the consideration payable for the supply under any our Small Business Customer Terms, Plan Inclusions or Customer Information Summary is not expressed to be inclusive of GST, you must pay us on demand, an additional amount calculated by multiplying the value of that GST-exclusive consideration (without deduction or set-off) by the prevailing GST rate. We will issue a tax invoice to you for any supply on which GST is imposed.

## Bill format

7.21 Our bills are available in the following format:

- (a) Email bill – receive your bill by email in PDF format; and
- (b) Online bill – view your bill online via MyCMobile on the [cmobile.com.au](http://cmobile.com.au) website.

7.22 We will use our best endeavours to deliver your email bill to the email address you nominate. If we cannot deliver your email bill to that email address, we will contact you to request that you update your email address.

7.23 We will notify you when a new online bill is made available on MyCMobile via email. It is your responsibility to contact us if you do not receive billing notices or cannot open online bills or email bills.

7.24 Provided that we use our best endeavours to deliver your email bill to you or notify you that your online bill is available, the bill remains payable on the 15<sup>th</sup> of the month regardless of whether or not you receive, read or access your bill or any notices from us regarding your bill.

7.25 It is your responsibility to:

- (a) keep your contact details and billing email address up to date at all times and notify us of any changes;
- (b) ensure you have sufficient space in your billing email mailbox to receive your bill or billing notices;
- (c) contact us if you do not receive your bill or billing notices after first checking your junk or spam mailbox;
- (d) keep your email account and devices secure to protect the privacy and confidentiality of the credit and calling information contained in the bills; and
- (e) check our online portal, MyCMobile, when notified that a bill is available.

## Financial Hardship

7.26 If you are experiencing financial hardship, you may contact us or refer to the Financial Hardship Policy on our website at [CMobile Financial Hardship Policy](#).

## 8. SUSPENSION OR TERMINATION OF YOUR SERVICE

### Cancellation of your service by you

- 8.1 You may cancel your service at any time by advising us in writing or via phone. You will still be liable for the entire months' access fee for the month you cancelled your service and we will not provide you with a pro-rata refund.
- 8.2 Following cancellation of your service, we may still bill you for any charges unbilled as at the date of cancellation including, but not limited to:
- (a) excess usage charges;
  - (b) charges for services not included in your service's plan inclusions;
  - (c) international roaming; and
  - (d) third-party service charges.
- You are liable to pay those charges in accordance with these Small Business Customer Terms.
- 8.3 If you cancel your service before it has been activated, we can charge you our reasonable costs in preparing to provide the service to you.
- 8.4 Your service will be cancelled if you port your number to another provider. In this event, all charges up to and including the date of termination and any applicable cancellation charges will become immediately due and payable.
- 8.5 You may cancel your service if we change our Small Business Customer Terms and the change represents a material adverse change to your service.

### Suspension or cancellation of your service by us

- 8.6 We may cancel or suspend your service if:
- (a) you breach these Small Business Customer Terms and you do not remedy that breach within 14 days of being notified of the breach by us, except where you are in breach of clauses 4.2, 4.8, 4.10 and 7.7 in which case we may suspend or terminate your service immediately on notice;
  - (b) your use of the service presents an unacceptably high credit risk to us, in which case we may suspend or terminate your service immediately on notice;
  - (c) we provide you with 30 days written notice of our intention to do so following the end of any minimum term;
  - (d) your behaviour towards us or our representatives has been abusive (verbally or otherwise), threatening or otherwise inappropriate;
  - (e) you have made multiple complaints without a reasonable basis for doing so and continue to do so after we have asked you to stop;
  - (f) you advise us that the SIM card has been lost or stolen;
  - (g) we have incomplete or incorrect information about you that we are required by law to record and you refuse to provide the information upon request;
  - (h) we are required to do so at the direction of our service network suppliers;
  - (i) we are permitted to, or required by, law;
  - (j) there is an emergency;
  - (k) providing the service to you becomes, or we reasonably believe may become, illegal;
  - (l) you become bankrupt or insolvent or appear likely to do so; or

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- (m) an administrator, receiver or scheme administrator is appointed to you, and that administrator, receiver or scheme administrator does not accept personal liability for the ongoing supply of services by us within 5 business days our request that they do so.
- 8.7 We may, but are not required to, suspend, limit or terminate your service if, in our reasonable opinion, the charges on your account are unusually high or if we reasonably consider that your account poses an unacceptably high credit risk to us. In making our decision, we may have regard to:
- (a) your previous average daily use;
  - (b) the total of your unbilled charges; and
  - (c) any unusual usage patterns.
- When considering whether you pose an unacceptably high credit risk to us, we will consider:
- (d) any outstanding debt currently on your account;
  - (e) your payment history;
  - (f) your communications with us when we have discussed, or attempted to discuss, your account with you, including your response to any notices sent to you by us; and
  - (g) your willingness and commitment to paying your account.
- 8.8 We will endeavour to provide as much notice as practicable where we cancel or suspend your service pursuant to clauses 8.6(f) to (m) and 8.7.
- 8.9 We may suspend or restrict your service(s) during the period before we cancel your service.

## Effect of cancellation or suspension

- 8.10 In the event of cancellation, you are liable for all charges incurred up to and including the date of cancellation.
- 8.11 You remain liable to pay for your service in the event of suspension of the service.
- 8.12 If requested by us, you must return your SIM card to CMobile upon cancellation of your service.
- 8.13 Following cancellation of your service we will refund any monies held in credit on your account after all charges incurred up to the date of cancellation have been paid.
- 8.14 We may require you to pay a reconnection charge of \$6.90 per service before we reconnect a service that has been cancelled except where the service was cancelled due to our error or failure.

## 9. LIABILITY

### Our liability to you

- 9.1 We agree that we are liable for our negligence in relation to supplying the services in the event of personal injury or death. We also agree we are liable for any breach by us of any non-excludable rights that you have under the Australian Consumer Law or other consumer protection laws.
- 9.2 If we are negligent in the supply of services to you and cause damage to property, we will repair or replace the property (or pay to do so).
- 9.3 We exclude all conditions and warranties implied into these Small Business Customer Terms. Where certain laws imply terms into contracts for the supply of goods and services that cannot be excluded, and we breach those terms, we accept liability for that breach. In this case, our liability is limited to the resupply, repair or replacement of the relevant goods or services, or paying you the cost of doing so.
- 9.4 Notwithstanding any other term of these Small Business Customer Terms:

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- (a) we are not liable for failing to comply with our Small Business Customer Terms where that failure is caused by something that is beyond our control; and
  - (b) we are not liable to you for expenses incurred, loss of profits or revenue, loss of anticipated business or savings, pure economic loss, loss of data, loss of goodwill, loss of value of equipment (other than the cost of repair), expectation loss or loss of opportunity, and any other form of special, indirect, punitive or exemplary loss or damages, including any penalties or fines imposed by a regulator, even if such loss arises directly, naturally or in the usual course of things from any breach, action or inaction.
- 9.5 Our liability for your loss is reduced to the extent that your acts or omissions or those of any third party not under our control, or your equipment, cause or contribute to that loss, or where you failed to take reasonable steps to minimise your loss.
- 9.6 We are not liable for any loss caused by events outside our reasonable control.

## Your liability to us

- 9.7 You are liable to us for any breach of this agreement, and must pay us for any loss or damage we suffer as a result of your use of the service, whether or not authorised by you.
- 9.8 If you and one or more others are the customer for a service, each of you is jointly and severally liable for all charges and other obligations relating to the service.
- 9.9 You indemnify us, and must pay us for, any loss or damage we suffer as a result of:
- (a) the use (or attempted use) of your service, whether or not authorised by you;
  - (b) equipment used in connection with your service;
  - (c) a claim by an end user arising out of or in connection with the use or attempted use of the service; and
  - (d) the use, access or transmission of any content using the service.
- 9.10 You indemnify us, and must pay us for, any costs, including legal costs, relating to your breach of our Small Business Customer Terms.

## 10. MISCELLANEOUS TERMS

### Assignment

- 10.1 We may transfer our rights and obligations under these Small Business Customer Terms to anyone else provided that the party to whom we are transferring our obligations has the ability to provide your service and perform our obligations in a manner similar to us and in accordance with these Small Business Customer Terms. We will provide you with reasonable notice before the transfer of your service occurs.
- 10.2 We may transfer one or more of your mobile services and associated numbers to a third party if requested where we reasonably believe that the person requesting the number transfer is a legitimate and long-term user of the service and associated mobile number. Depending on the reasons for the transfer we may, but are not required to, notify you of the transfer and/or the reasons for the transfer.

### Governing law and jurisdiction

- 10.3 These Small Business Customer Terms are governed by the laws of the Australian State or Territory where you lived at the time of entering into this agreement. You and we agree to submit to the non-exclusive jurisdiction of the courts of that State or Territory.

### Waiver

- 10.4 If we fail or delay in exercising a right under these Small Business Customer Terms it does not operate as a waiver of that right. A waiver will only be effective if agreed by us in writing.

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## Privacy

10.5 We collect, use and disclose personal information as set out in our Privacy Policy which you can find at [CMobile Privacy Policy](#).

## Term void or unenforceable

10.6 If any term or part thereof in these Small Business Customer Terms is void or unenforceable, that term (or part thereof) is removed from these Small Business Customer Terms. The remaining terms will continue to have full effect.