

## 1 THIS AGREEMENT

- i. Zero Mobile Pty Ltd (“Zero AU”)– ACN: 636 572 168 – is a Software Company that develops, manages and maintains various software platforms used to provide various services to our customers and a Mobile Virtual Network Operator, or MVNO, which provides mobile telephony services (“Our Service(s)” “Our Product(s)”) in Australia. The parties to This Agreement are Zero Mobile Pty Ltd and any other subsidiary, affiliate, assignee, and related company of Zero Mobile Pty Ltd (“We “Us” “Our”) and You, with (“You” “Your”) You being the applicant, subscriber or the end user.
- ii. You agree to be bound by these General Terms and Conditions of Service (“Terms” “Terms of Service” “This Policy” “This Agreement”) in order to enjoy the use of any of Our Product(s) and Service(s). You agree that We may modify Our Terms and notify You, where required, in accordance with This Policy at any time. You accept and agree that it is Your obligation to review these, and any other Terms We may release by reference to, and/or incorporation into, This Policy periodically, and that Your continued use of Our Service will be deemed as acceptance of Our modified Terms at any time.
- iii. This Agreement incorporates the General Terms and Conditions, Privacy and Data Protection Policy, Critical Information Summaries, Fair usage Policies (if any) and any other Policies as may be introduced and incorporated Our Terms from time to time.
- iv. You agree that if You are unable to obtain any General Terms and Conditions, Privacy and Data Protection Policy, Critical Information Summaries, Fair usage Policies and Other Policies from [www.zeromobile.com.au](http://www.zeromobile.com.au) (“Our Website”) or Zero AU App (“Our Mobile App”), You will request that information from Us and We will provide it to You within 7 days of receiving that request.
- v. This Agreement commences from the time You submit Your application for a Service with Us in accordance with Our Terms.
- vi. In the event of an/any inconsistency between this General Terms and Conditions and any other Policy, the General Terms and Conditions prevail to the extent of that inconsistency, unless expressly stated otherwise.
- vii. You agree that it is Your responsibility to ensure that You and/or any other person You permit to use Our Service complies with, and is bound by, the Terms as if they were You.
- viii. Any reference in This Agreement to You committing or doing an act includes anybody else that You permit that may be using Our Service.
- ix. Any reference in This Agreement to You committing or doing an act includes any attempt to commit that act.

## 2 OUR SERVICE

- i. Our Service(s), also referred to as Our Product(s); include:
  - a. Our Standard Mobile Telephone Service in Australia; and
  - b. Our Software, including Our Mobile App with evolving functionality, billing systems, and other software and systems provided and managed by Us that are necessary to provide Our Service to You.

### Your Service

- ii. Any reference to Your Service in This Agreement is a reference to:
  - a. Your mobile number or Your mobile service specifically; and/or
  - b. Your access to Our Mobile App.

## 3 MINIMUM TERM

- i. There is no minimum term of use for Our Service.
- ii. Further to Clause 3(i), You accept and agree that there is a minimum cost attached to Our Service. You can find this cost:

- a. On Our Website where the details for the product is provided; or
  - b. In the Critical Information Summary for that Service; or
  - c. During the signup process.
- iii. For indicative purpose only, the minimum costs typically include any signup and shipping fee, first cycle of subscription and prepayment of PAYG charges, where applicable.

#### 4 ACCESS TO OUR SERVICE

- i. We will not accept Your application unless You provide Us with:
  - a. Your *identification information*: including Your name, address and other identification details; and/or
  - b. Valid documentary evidence relating to Your personal details, where We are unable to verify Your identity digitally; and
  - c. Valid payment details.
- ii. You understand that We will not accept Your application when:
  - a. We are unable to verify Your identity or other information that You have provided Us; or
  - b. You refuse to provide Us with any further information that We request in accordance with these Terms or to carry out Our obligations under relevant applicable laws and regulations in Australia; or
  - c. We do not have sufficient services available to activate in any given period.
  - a. You agree that upon Us accepting Your application, where required, We will send Your SIM card to You within 5 working days and You must activate the SIM within 10 days of receiving it.
- iii. You understand, accept and agree that Our Service is provided for ordinary personal, non-commercial use only ("Personal user"). It is not available for use for any businesses, corporations or commercial purposes, unless explicitly agreed otherwise. We may refuse to accept Your application if:
  - a. You refuse, deny or withdraw Your consent to any of Our Terms.
  - b. We believe, or have a reason to believe, at Our sole discretion, and for whatsoever reason without justification owed to You or to a third party, that You are not Personal user or are likely not to be a Personal user.
  - c. You do not meet the criteria We set from time to time to join Our Service.
  - d. We determine that You are likely to use the service in a manner which is not the intended manner of use of Our Service. *As an example, You use Our Service in a device other than an Android or iOS smartphone.*
  - e. You breach, or in Our opinion are likely to breach, a substantial clause in This Agreement.
  - f. For any other reason, at Our sole discretion without giving any reason to You.
- iv. If We refuse Your application in accordance with Clause 4 (iii)(f), without any specific reason or justification to You, then We may, at Our sole discretion, refund any upfront charges paid by You to Us within 14 days of that refusal.
- v. Upon verification of Your information to Our satisfaction and the acceptance of Your application by Us, We will proceed to activate Your Account.

#### 5 YOUR RIGHTS TO USE OUR SERVICE FOR PERSONAL USE ONLY

- i. You must use Our Service in an Android or iOS running smartphone only.
- ii. You must use Our Service for ordinary personal, non-commercial use as a Consumer only.
- iii. We may, at Our sole discretion and subject to the requisite notice requirements as per This Policy, discontinue Your access to Our Service if:
  - a. You refuse or withdraw Your consent to any of Our Terms at any time.
  - b. We believe, or have a reason to believe, at Our sole discretion and for whatsoever reason, without any justification to You or any third party, that You are not Personal user or are likely not to be a Personal user.

- c. You do not meet the criteria We set from time to time to join Our Service.
  - d. Your creditworthiness in general.
  - e. You breach, or in Our opinion are likely to breach, a substantial clause in This Agreement.
- iv. You understand, accept and agree that although We will take all due care to provide You with the best service possible, the Quality of Service We provide to You may, at times, be of a lower standard than expected. Insofar as the Quality of Service standard exists, You understand, accept and agree that the lower standard may result in longer waiting times or lengthier processes relating to:
- a. Service activation
  - b. Resolution of disputes
  - c. Resolution of any technical issues
  - d. Cancellation of services
  - e. Communication between You and Us in general
- v. For the sake of clarity, Our non-compliance as per Clause 5(iv) shall not affect Your ability to use Our mobile service.

## 6 SERVICE LIMITATIONS

### International Calls

- i. You understand, accept and agree that:
  - a. We only provide international calling as an Unlimited Calling add-on at an additional cost, or on a PAYG basis billed and charge per minute basis to 10 selected destinations on specific plans, where available.
  - b. We do not provide international SMS functionality.
  - c. You can view these rates on Our Website or Our Mobile App before making any calls.

### International Roaming

- ii. You understand, accept and agree that We do not offer international roaming. This means that You will not be able to use Our Service when traveling outside of Australia.

## 7 OPT OUT FROM REWARDS PROGRAMS

- i. You may, at Your discretion, and at any time, Switch-off or Opt-out from:
  - a. Any rewards or incentive programs that We offer from time to time, such as:
    - i. Invites – Our program that provides You with ongoing incentive when You invite people from time to time.
    - ii. Shoutouts – Our program that allows You to receive personalised recommendations, deals and offers near You.
    - iii. Marketplace – Our program that allows You access Our marketplace.
- ii. You may do so by simply changing Your preferences in Our Mobile App.
- iii. You understand, accept and agree that if You choose to Switch-off or Opt-out, You will immediately lose any credits, bonus, incentives or rewards that You may be receiving from Us or are entitled to receive from Us from time to time.

## 8 WHEN WE MAY SUSPEND OR TERMINATE YOUR SERVICE WITH NOTICE

- i. We may, with 14 days' notice to You request that You port Your Service to another service provider, if We are unable to continue provide Our Service to You for any reason; and
- ii. If You fail to port Your Service to another provider in that time, We may terminate Your Service without any further notice to You.

## 9 WHEN WE MAY SUSPEND OR TERMINATE YOUR SERVICE WITHOUT NOTICE

- i. We may, without notice to You, discontinue Your access to Our Service if:
  - a. You create, or are likely to create, any harm to Our network, software platform or other infrastructure or person related to Us.
  - b. You defraud Us.

- c. You breach, or are likely to breach, any material clause of Terms.
- d. You cease to exist i.e. die.
- e. We are under direction from any relevant regulatory authority, law enforcement body, court of competent jurisdiction or any other competent authority to do so.

## 10 HOW CAN YOU DEFRAUD US

- i. You can Defraud Us if:
  - a. You provide Us any false or inaccurate information relating to Your identification, address, legal status or any other information You provide in order to gain access to Our Service.
  - b. You provide Us with payment details that do not belong to You or any other payment details that You had no authority to use.
  - c. You do not use Our Service for ordinary personal non-commercial use as a Consumer.
  - d. You manipulate Our software, or use any other means to manipulate Our software, including Our Mobile App in any way.
  - e. You use Our Service in a manner which is not intended by using it:
    - i. In a device which is not an Android or iOS smartphone, unless agreed in writing by Us.
    - ii. In a tablet, iPad or any other device which is not a smartphone, unless agreed in writing by Us.
    - iii. In a solar panel for transmitting data.
    - iv. In any built-in car systems to get access to mobile data.
    - v. For SIM Boxing.
    - vi. For Call termination by machine.
    - vii. Any other type of device, the primary purpose of which is not to make and receive calls, SMS and access the internet as it would be accessed by an ordinary person.
- ii. If You defraud Us, You agree that:
  - a. Where the fraud relates to identity or payment details, where required, We may disclose any information relating You or Your account to any relevant authorities, including but not limited to the relevant Police department for investigation, and where appropriate for prosecution; to Your detriment.
  - b. You indemnify Us from any and all losses, including legal costs, enforcement costs, wholesale carrier costs or any other costs that We have incurred, or that We may incur, because of Your breach.

## 11 BILLING AND PAYMENTS

### Subscription

- i. As a low-cost service provider, it is important for Us ensure that all Our subscribers utilise the service in a manner in which it was intended and ensure that Our subscribers pay within Terms of This Agreement so they can continue to enjoy Our Service.
- ii. You understand and agree that:
  - a. You will be able to access Your subscription cost, usage information and any other relevant information from Our Mobile App.
  - b. Your Zero AU Subscription will continue until terminated. Your subscription will renew automatically every 28 days ("Subscription Renewal Date") unless Your plan specifies a varied billing cycle or unless We have received a request to cancel Your service from You.
  - c. Your payment is charged at the time at which Your subscription is renewed automatically.
  - d. In certain circumstances, not all usage may be billed immediately. If that happens
    - i. Any such usage will be billed to You on any subsequent period; and
    - ii. Such charges are valid and due and payable as any other charges in This Agreement.
  - e. We may issue You an interim charge at any time if You have exhausted Your \$10 PAYG credit at any time during a Subscription cycle.

### Rates

- iii. You understand and agree that You can access all relevant rates via:

- a. Our Website by visiting [www.zeromobile.com.au/rates](http://www.zeromobile.com.au/rates) or other such pages which may display rates; or
- b. Our Mobile App.

#### *Loss of SIM card*

- iv. You understand and agree that:
  - a. You must contact Us immediately if Your SIM card is lost, stolen or damaged; and
  - b. You can do so via Our Website or Our Mobile App; and
  - c. Your Service will be temporarily suspended for a period of up to 14 days to allow time for You to receive a new SIM card from Us and activate it; and
  - d. Your subscription continues to be billed at Your current price during that period; and
  - e. You are responsible for all the charges on Your service until You have contacted Us.

#### **Service Number**

- v. When You apply to join Our Service, You may choose to:
  - a. Get a new mobile number allocated by Us; or
  - b. Retain Your existing number by providing Your current service details to *port Your existing service*.
- vi. When You request to *port Your existing service*, You acknowledge and confirm that:
  - a. You have the authority to transfer the number listed on Your application.
  - b. You authorise and request Us to transfer that service to Us, which may require Us to disclose Your number and transfer details to service providers, suppliers, and financial institutions for call and message routing, complaint handling, managing network faults, preventing and investigating fraud, and to transfer the service.
  - c. Your authorisation is valid 30 days from the date You provided it to Us.
- vii. When We *port Your existing service*, You acknowledge and confirm that:
  - a. When Your number is transferred to Us, Your existing provider may disconnect the service and other services and stop incentives and benefits that may be associated with the transferred service.
  - b. You may have an existing contract with Your current service provider which includes an obligation to pay early termination charges to them and You may incur costs by transferring Your existing number to Us; and
  - c. You are responsible for any charges that You may incur from Your current service provider when You transfer Your service to Us.

#### *Pre-port Verification*

- viii. As mandated by the *Australian Communications and Media Authority*, We are required to verify a number before We can port it to Our Service. As part of the verification, We may send You an SMS with a One Time Password to verify it:
  - a. Via a Weblink.
  - b. Verbally to Us.
  - c. Via Our Mobile App.
- ix. You understand and accept that *We are unable to initiate the porting process*, until We have verified Your existing service.

#### *Porting Out*

- x. You can port Your existing Zero AU service to another provider by providing them with Your personal details, Your existing service number with Zero AU and Your **date of birth**.

#### **Payment Method**

- xi. You understand and agree that:
  - a. A valid form of payment is defined as an unexpired and active credit card or debit card (MasterCard or Visa only) ("Payment Method") issued directly to You under Your name or to

someone else from whom You have obtained their authority and consent to use the card for payment on Your account.

- b. You will maintain a valid Payment Method on Your account, with sufficient funds, at the time of Your subscription renewal. Valid forms of payment are:
  - i. MasterCard Debit or Credit Card
  - ii. Visa Debit or Credit Card
- c. We can charge You the billed amount – other than any amount disputed by You in good faith – on the Subscription Renewal Date by directly withdrawing the billed amount from Your Payment Method on file.

#### *Updating Your payment method*

- xii. You understand and accept that:
  - a. It is Your responsibility to maintain a valid Payment Method on Your account at all times; and
  - b. You can update Your Payment Method via Our Mobile App at any time; and
  - c. We may also update Your Payment Method using information provided to Us by payment service providers; and
  - d. You authorise Us to continue to charge the applicable Payment Method.

#### **Non-renewal of Subscription**

- xiii. You understand and agree that:
  - a. You have no obligation to continue to renew Your Subscription.
  - b. When Your subscription is not renewed automatically for any reason, including due to a failed payment, You will not be able to access the full functionality of Our Service immediately thereafter. Specifically, You will be unable to:
    - i. Make outgoing calls, except to emergency services in Australia;
    - ii. Send outgoing SMS; and
    - iii. Access any mobile data.
  - c. If You do not renew Your Subscription within 14 days of the Subscription Renewal Date, Your Subscription will be terminated automatically. You will be unable to retain or recover Your mobile number thereafter.

#### *\$0 Base Plan*

- xiv. On the Subscription Renewal Date, no payment will be required for the \$0 Base Plan with PAYG Calls & SMS, unless additional usage or add-ons must be billed, or Your available Account Credit is below \$10. In order to maintain continuity of Your service, You will be billed \$10 automatically when Your available Account Credit drops to \$0.

#### **Service Cancellation**

- xv. You can cancel Your Zero AU subscription via the Zero AU Mobile App or by porting Your Zero AU number to another service provider at any time. Your service may be cancelled:
  - a. Effective immediately; or
  - b. At the end of Our current Subscription Cycle.
- xvi. To the extent permitted by applicable law, any payments made are non-refundable and We do not provide refunds or credits for any partial subscription period or unused minutes, SMS or data allowance.
- xvii. Your account will automatically close upon the cancellation of Your service.

#### *Order Cancellation*

- xviii. Your application is completed upon Us successfully receiving Your information when You have pressed the "Submit" button on Our Website or Our Mobile App.
- xix. We will not accept any request for cancellation once the application has been received by Us.
- xx. Any payment, including any sign-up fee, SIM card fee, or any charges paid are non-refundable.

**GST**

- xxi. Unless otherwise stated, all prices include GST at the applicable rate.

**Mistakes, Errors and Omissions**

- xxii. Even with all the due diligence and care, there may be occasions where We make an honest mistake when providing You with Our prices, terms or other important information. This happens when We provide or bill You with prices, terms or other important information when We did not intend to, erroneously. If this happens, as soon as We become aware of the mistake, We will in good faith immediately:
- a. Inform You of Our mistake.
  - b. Give You the specific details of Our mistake.
  - c. Correct Our mistake and provide You the correct prices, terms or other important information.
- xxiii. You may:
- a. Accept the corrected prices, terms or other important information and continue to access the product; or
  - b. Reject the corrected prices, terms or other important information and get a refund from Us for any fees or charges that You have paid Us in relation to the mistaken Product or Service; and
  - c. If You already have access to the Product or Service, You agree that We will disconnect Your access to the Product or Service immediately; or
  - d. If You do not yet have access to the Product or Service, You agree that We will immediately stop any further acts towards giving You access to that Product of Service.
- xxiv. Even with all the due diligence and care, there may be occasions where We make an honest mistake when billing You. This happens when We erroneously bill at a rate that is different to a rate from This Agreement. If this happens, and
- a. You notice this error;
    - i. You must notify Us of the error immediately, irrespective of the fact if We have billed You at a lower rate or a higher rate than the rate in this Agreement; and
    - ii. We will investigate it within 30 days; and
      1. Apply a credit to Your account in Your next Subscription cycle if We have overbilled You; or
      2. Charge You for the difference of the amount if We have under-billed You in Your next Subscription cycle.
    - iii. If additional charges are payable by You, You agree that upon being notified of the error by Us, You will pay the amended charges, without dispute, within the payment terms of This Agreement.
  - b. If We notice this error, We will investigate it and notify You of the error 30 days, and:
    - i. Apply a credit to Your account on Your next Subscription cycle if We have overbilled You; or
    - ii. Charge You for the difference of the amount if We have under-billed You in Your next billing cycle.
    - iii. If additional charges are payable by You, You agree that upon being notified of the error by Us, You will pay the amended charges, without dispute, within the payment terms of This Agreement.
- xxv. On some occasions, due to various reasons, certain usage information from the MNO may not be available immediately resulting in You not being billed for those charges. If instances where this occurs, You agree that:
- a. We will charge You for that usage in the next Subscription cycle after receiving such usage information; and
  - b. You will pay those charges, without dispute, and within the payment terms of This Agreement.

**Charges Disputed by You**

- xxvi. If You wish to dispute or contest any charges, whether You have paid them or not, You must do so as soon as possible, but within 12 months from the date of the charge being issued to You.

- xxvii. We will review Your dispute and either accept or reject Your request in writing within 30 days of receiving it, and:
- a. If We accept Your request, We will credit the accepted amount in Your next Subscription cycle; or
  - b. If We reject Your request, You are required to pay the full disputed amount to Us immediately.

## 12 DISPUTE RESOLUTION

- i. In the event of dispute, complaint or to contest any charges, You must first give Us an opportunity to address and resolve the matter internally by mutual agreement to Your satisfaction. You may do so by simply raising a request via Our Mobile App and allow Us 30 days to investigate Your request and resolve it.
- ii. If We fail to resolve the matter by mutual agreement within 45 days, at any time after that, You agree to submit the matter for Arbitration in the State of Victoria for resolution by providing Your Consent together with Us; and
- iii. To the extent permitted by law, You agree that the decision of the Arbitration will be accepted as a final decision to settle the dispute, complaint or contest.

## 13 INFORMATION MANAGEMENT

- i. In order to provide You with Our Service, it is necessary for Us to gather information about to You. Some of this information is required to comply with regulatory requirements while the rest is necessary to provide Our best Service to You. We handle all Your Personal Information in accordance with the Personal Data Protection Laws in Australia and Our Privacy and Data Protection Policy. We use industry standards to keep it safe and secure.

### *Information You Provide Us With*

- ii. This is information that You provide Us when You register for Our Service, update Your details or otherwise interact with Us in any manner. This includes:
  - a. Any information, including information relating to Your name, date of birth, identity, address, email, phone number, username, password, payment details or any other relevant information and any documentary evidence thereof that You have provided Us during the registration process.
  - b. Your express, implied and ongoing consent to all Our Terms, Conditions and Polices.
  - c. Any information that You provide Us when You contact Us or We contact You.
  - d. Any interaction You have with Us via Our Mobile App.
  - e. Any information We receive when You allow Us access to Your address book or location, depending on Your preference to use various features in Our Mobile App.
  - f. Any other information about You that may come into Our possession during the course of conducting Our usual business practices.

### *Information Generated Automatically When You use Our Service*

- iii. Certain information is generated automatically when You use Our Service. This is dependent on the features You use, Your settings on Our Mobile App, and the permissions You give Us on Your device. This includes:
  - a. Information about Your device. We will collect information about the devices You use to access Our Service. This includes any information about the hardware models, operating systems and versions, software, file names and versions, preferred languages, unique device identifiers, advertising identifiers, serial numbers, device motion information, and IMEI.
  - b. Your address book. We may gain access Your address book or stored contact information on Your phone in order to provide You with the Invite functionality on Our Mobile App. This functionality allows You to invite other users to Our platform and receive an ongoing credit each month on Your account, in accordance with Our Terms. You can choose to deny Us the permission to access Your contact list or to deliver the invitations on Your behalf. If You choose to do so, You will not be able to receive any ongoing credits for Invites from Us.



- c. Information about Your location. We will require access to precise or approximate location information of Your device from time to time in order to provide You with the Shoutouts functionality on Our Mobile App. This functionality delivers relevant content to You from near You based on the location of Your device at any given time. You may choose to disable this feature directly on Our Mobile App or turn off location information for Our Mobile App on Your device and not receive any content from Us. This will have an adverse impact on Your ability to gain ongoing rewards and credits from Us.
- d. Information about Your usage and preference. We collect information about how You interact with Our Service, the preferences You have expressed, and settings You choose. In most cases, We ask You and You provide Us this information. In certain instances, We may use digital technology via the use of cookies, pixel-tags, and other technologies which will help Us uniquely identify You and Your behaviour.
- e. Log Information. When You interact with Our Service, We may collect information logs about Your IP address, dates and times when You access Our Service, Your usage pattern of Our Mobile App, service interruptions, preference for Web browsers and information about any other services You may be interacting with.
- f. Information about Your mobile usage. You will use Our Service to make & receive calls, send & receive SMS and connect to the internet. We will receive log information about Your usage. We will use this information to bill You each month. We may also use this information to provide You with better and more relevant content on Our Mobile App. We may further use this information for providing You support, improve Our Service to You, and for analytics.

*Information We obtain from third parties*

- iv. Information from other sources includes:
  - a. Our MNO carrier, partners, suppliers or other service providers We use to manage Our Service that We provide to You.
  - b. Credit management and reporting agencies.
  - c. Government agencies.
  - d. Financial institutions and payment service providers.
  - e. Any publicly available information about You.
  - f. Any information that Your family or friends provide to Us about You.
- v. We may combine information from all these resources in Our possession to create a singular profile about You in order to:
  - a. Meet regulatory requirements.
  - b. Provide You with the services that You have asked Us to.
  - c. Verify Your identity.
  - d. Process payments from You.
  - e. Provide You with support when You need it.
  - f. Enable communication between You and others.
  - g. Provide You with better and more relevant content and service.
  - h. Provide You with offers and rewards.
  - i. Conduct research and development.
  - j. use it in connection with any legal proceedings.
  - k. use it in connection with any other usual business purpose.

***Non-disclosure of Your personal information***

- vi. As a Freemium Provider, You consent to Us using Your *Personal Information* to directly market any products or services that We think may be of interest to You; and
- vii. Unless We have Your explicit consent, **We will not disclose any personally identifiable information** about You to any third parties for the purpose of marketing any such products or services.
- viii. We may send information about such products and services to You by using:
  - a. Post
  - b. Email
  - c. Electronic messaging

- d. Social media
  - e. Targeted Web content
  - f. In-app mobile messaging
  - g. Other direct marketing channel
- ix. Direct marketing may continue until You withdraw Your consent, or You disconnect from Our Service.

**Personally Identifiable Information**

- x. Any information that may personally identify you is classified as *Personally Identifiable Information*. This includes Your:
- a. Name
  - b. Date of birth
  - c. Address
  - d. Contact number
  - e. Email
  - f. Address
  - g. Identification details, including any ID number, issuing authority and expiry date

**14 OUR SOFTWARE**

- i. Software that is relevant to this part of the Terms includes Our:
- a. Website
  - b. Billing system
  - c. Online account management system
  - d. Mobile App; and/or
  - e. Any other software We may use from time to time to provide Our Service to You.
- ii. You understand, accept and agree that:
- a. You must download Our Mobile App and any updates, patches, modifications or other utilities on Your compatible mobile device in order to access, manage, modify or cancel Your service.
  - b. Subject to Your ongoing compliance with Our Terms, We grant You a limited, personal, revocable, non-transferable, non-sub licensable, non-exclusive license to use Our software solely for the purpose stated by Us at the time Our Software is made available to You.
  - c. You must not licence, on-sell, rent or charge money to others for its use or access by others.
  - d. You must not do or attempt to translate, reverse engineer, reverse compile or decompile, disassemble, or otherwise attempt to discover the source code of the Our Software.
  - e. You must not make, or attempt to make, any derivative works from or of Our Software.
  - f. You must not modify Our Software or use it for any other unintended purpose.
  - g. Any third-party software, features or functionality that We may provide You shall be subject to their respective Terms and Conditions. By agreeing to these Terms, Your consent to any third party Terms and conditions is also implied.
  - h. We and any other relevant licensees, copyright owners or intellectual property owners expressly reserve ownership of all intellectual property rights respectively.
  - i. Any right not expressly granted here is expressly reserved without any implied rights to You.
  - j. Any license granted to You by Us will immediately terminate, with no notice to You, if You breach any of Our Terms.

**15 BETA STAGE**

- i. From time to time, We will release Our Software and services in beta stage. You understand, accept and agree that:
- a. Any products or services released in beta stage may have higher or lower number of features and functionality than intended or advertised.
  - b. The commercial version of any software released in beta stage to be subsequently released, will be done at Our sole discretion.
  - c. If We release a commercial version of any software that We have released in beta stage, any product or services You subscribe to will be converted to a full commercial version upon the conclusion of the beta stage automatically.
  - d. We reserve the right to not release a commercial version of any product in beta stage.

- e. Any products or services released in beta stage may contain errors, bugs or other limitations which may affect Your ability to use them.
  - f. By accepting these Terms, the use of any products or services We release in beta stage may be prone to intermittent outages or disruptions that may limit Your ability to enjoy their full use.
  - g. We specifically disclaim all damages or liability resulting from Your use of any beta stage release products or services that We may provide.
- ii. For the sake of clarity, Your mobile service is not part of the beta release. Our beta release includes:
    - a. Our Mobile App
    - b. Our Software for billing You and Your account management tool, both on a desktop computer and Our Mobile App
    - c. Software for Invites
    - d. Software for Shoutouts
    - e. Software for Marketplace
  - iii. For the sake of further clarity, any limitations, outages, disruptions, bugs or errors in Our Mobile App shall not hinder Your ability to use Your mobile phone to access calls, SMS or data usage.
  - iv. Our Service will be available from 15<sup>th</sup> June 2020 in **beta stage** for a period of three months, expiring at 11:59pm on 14<sup>th</sup> September 2020.

## 16 CHANGES TO THIS AGREEMENT

### Changes Made During Beta Stage

- i. We may amend, vary or supplement any agreement, including the General Terms, Specific Terms, any Fees and Charges, the Billing and Payment Terms, the Prescribed Rate, Privacy and Data Protection Policy and/or any other Terms or conditions relating to any Account or Service) during the beta stage, currently scheduled to end at 11:59pm on 14<sup>th</sup> September 2020, based on Our observation of usage of Our Service, general rates of compliance, Your feedback to Us and any other conclusions We derive from further research without any direct notice to You personally. We will update these Terms by simply updating them on Our Website, Our Mobile App, or by any other means, in accordance with This Agreement, where We can reasonably expect to draw Your attention to. We generally classify any changes We make in categories where:
  - a. The amended Terms do not alter Your rights in a substantial manner.
  - b. The amended Terms may affect You adversely but not in a substantial manner.
  - c. The amended Terms do not alter Your rights to Your own detriment.
  - d. The amended Terms improve Your rights.
  - e. We are not restricted by any relevant laws and regulations from doing so.
- ii. We will determine that an amendment is to Your own detriment when You are an existing user of Our Service that has used and paid for Our Service for a minimum of one full Subscription cycle and We consider any changes made to have more than a minor impact to Your rights.
- iii. For the sake of clarity, the following Terms are considered to affect Your rights in a substantial manner and 7 days' notice in writing shall be provided to You before amendments are made to:
  - a. Subscription charges
  - b. Any other additional charges or fees
  - c. Subscription billing cycle
  - d. Quality of service standards
  - e. Service termination and suspension rights
  - f. Any credits, bonuses or incentives that are offered to You by Us
- iv. Any notice referred in Clause 16 (iii) may be provided to You by means of:
  - a. an email.
  - b. sending it to You in writing by regular post.
  - c. writing a note on Subscription invoice.
  - d. Sending notification using Our Mobile App.

- e. Sending You an SMS or any other form of messaging with a link to provide You full access to any changes.
  - f. publishing it on Our Website or via any other means We determine that We can reasonably expect to draw Your attention to.
- v. You agree that any such notice shall constitute good and sufficient notice to You and shall be deemed to have been received by You on the date of such publication, posting or the making public of such notice.
- vi. If You do not agree with any amended Terms as per Clause 16 (iii), You may give Us notice within that 7-day period to cancel Your Subscription at the end of Your current Subscription Cycle. If You give notice to cancel, then:
- a. You must pay Us the subscription charges, if any, and any other relevant charges that You have incurred with Us until the end of that Subscription cycle; and
  - b. Any other outstanding and overdue amounts that You owe to Us; and
  - c. You will immediately lose any signup fee, registration fee or any other one-time fee that You have paid Us; and any credits, bonus, incentives or rewards that You may be receiving from Us or are entitled to receive from Us.

## **17 YOUR INDEMNITY TO US AND THE LIMITATION OF OUR LIABILITY TO YOU**

- i. You agree to indemnify Us at any and all times – to the extent permitted under law – against any legal actions, claims, proceedings, costs (including legal costs), liability, losses and damages which are bought against Us, or may be brought against Us, because of:
- a. The use of Our Service by You, causing Us loss or damage, or any other grounds for a claim for loss or damage by a third party.
  - b. Any damage, disruption, interference caused to Our Service due to any act or inaction by You.
  - c. Any content: including but not limited to pictures, messages, posts, You publish about Us or about using Our Service that We provide to You.
  - d. Any changes, modifications, alterations, adjustments or variations You make, or attempt to make, to Our software or other systems operated by Us.
  - e. Any proceedings We may bring against You to enforce any of Our right the within Terms of This Agreement.
- ii. You have no right to sell, or commercially exploit, Our Service in any manner as a private user. If You, or any service subscribed by You and provided by Us, is used for any commercial or business purpose to generate revenue, regardless if it is at a profit or a loss, and including but not limited to; marketing, telemarketing, re-selling, rebilling, on-selling it or wholesaling Our Service, in breach of these Terms or the Laws of any Australian State or Territory, then You agree that:
- a. We are rightfully entitled to all of the revenue You have derived from commercial use or exploitation, or business use, of Our Service; and
  - b. We are deemed to have been deprived of all the revenue derived from Your business or commercial activity; and
  - c. We are entitled to ask, and You will immediately provide Us with, any information and documentation relating to such commercial or business activity, including but not limited to the information about Your sales, revenue and client details, whether in Australia or not; and
  - d. You will pay Us an amount representing the total amount of revenue from Your commercial or business activity.
- iii. You further agree that:
- a. We may classify or deem such usage as Fraudulent usage; and
  - b. This usage includes, but is not limited to any, call minutes, SMS or any other usage that You have used; and
  - c. You will indemnify Us from any costs incurred in providing You Our Service and exercising any rights that We have under This Agreement; and
  - d. We may discontinue Your access to Our Service with no notice to You.

- iv. If We deem or determine that You have used Our service for a commercial or a business purpose fraudulently, the onus is on You to prove that those services Were not used for that purpose.

## 18 EXCLUSION OF OUR LIABILITY

- i. You agree that We are not liable to You for any direct or indirect economic or financial loss or damage (including any loss of revenue or profits, direct or indirect), regardless of cause of the damage or loss, that may result from any breach or failure by Us to perform any of Our obligations under This Agreement. We specifically exclude any liability in:
  - a. Contract Law
  - b. Common law, including the Law of Torts relating to:
    - i. Tort of Negligence
    - ii. Breach of statutory duty; and
    - iii. Confidence.
- ii. You agree to specifically waive any liability in contract, law of torts or any other applicable Laws for, or flowing from, Our behaviour. This includes:
  - a. Any defect, deficiency, breakdown or failure of any of Our Software, or the incompatibility or unsuitability of any of Our Software in relation to or in conjunction with any other system or equipment, (whether used or operated by You or any other person).
  - b. Any failure, delay, interruption to or disruption of any Service in the transmission or reception of any data through any Service, howsoever caused or arising.
  - c. Any defect or deficiency in or the breakdown or failure of any equipment or system (whether or not maintained or operated by Us or another person), howsoever arising.
  - d. Any defect, deficiency or deterioration in the quality of any signal or data transmitted as part of any Service We provide.
  - e. Any loss, corruption or deletion of any data or information (whether belonging to, provided or stored by You or another person) transmitted to or stored in any system or equipment (whether or not maintained or operated by Us, You or any other person), howsoever caused or arising.
  - f. Any event, the occurrence of which that We are unable to control or avoid by the use of reasonable diligence, including but not limited to the failure, shortage or interruption of electrical power or supply, riots or civil commotion, strikes, lock outs or trade or labour disputes or disturbances, plague, epidemic or quarantine, fire, flood, drought or acts of any government or sovereign, change in any laws, acts of war or terrorism (whether real or perceived), the defaults, omissions or actions of any IMDA Licensee, inclement or extreme Weather conditions and acts of God.
  - g. The disclosure and/or publication by Us of any information or data relating to You, any Service Number (including any Unlisted Service Number) or any Account, howsoever caused or arising.
  - h. The use in any manner and/or for any purpose whatsoever by any person, at any time whatsoever, and from time to time of any information or data relating to You or any account or transmitted through the use of any service subscribed by or provided to You and/or relating to the use of any such services whether by You or any person and/or provided by You to the another person; and/or
  - i. Any error, omission or inaccuracy in any information provided by Us whether to You or any person and whether in any publication or as part of or in connection with any Services (including any call tracing service or otherwise).
- iii. In any case whatsoever, Our liability to You whether in contract, Law of Torts (including negligence or breach of statutory duty) or otherwise for any and all losses, damages or liabilities caused or arising from any breach, failure or default of Our duty to perform any of Our obligations or duties to You (whether arising under any agreement or at law) with respect to any service shall not in aggregate, exceed the amount equal to only those fees and charges in respect of the services which are prescribed and imposed with reference to any time frame or interval (but not usage) for the period of three months immediately preceding such breach, failure or default on Our part or, if the amount of those fees and charges for such period is \$0, the amount equal to the total amount of any other fees and charges paid by the You to Us for the same period.

**19 NO WAIVER**

- i. No failure to exercise or enforce, and/or no delay by Us in exercising or enforcing any rights We have under any agreements with You shall operate as a waiver of those rights. Any such failure or delay to act or enforce any rights We have in any way shall not prejudice or affect Our right to exercise those rights at a later time in accordance This Agreement.

**20 CONFIDENTIALITY AND NON-DISCLOSURE**

- i. You shall not, nor shall You attempt to, or allow another person on Your behalf to, disclose any information about any of Your dealing with Us, Your account, Your Account Access details, including Your passwords or PIN, Your offers, rewards and/or benefits You receive from Us; in any public forum, including any social media platforms, online forums and any other publicly accessible means of information, except with Our written consent.

**21 ASSIGNMENT OF RIGHTS**

You may not assign any rights

- i. You shall not, nor shall You attempt to, assign, transfer or give any or all of Your rights, interests and obligations under This Agreement to any third party.

We may assign any rights

- ii. You agree and consent, for the purpose of and attaining the requisite threshold of compliance with the Telecommunications Regulations in Australia, and any other applicable laws, that We may assign and transfer any or all of Our rights, interests and/or obligations under This Agreement with You to another service provider or any third party.
- iii. Any such assignment or transfer will take effect upon Notice of Assignment being provided to You in accordance with the notice requirements in This Agreement.
- iv. If We transfer any or all of Our rights, interest and/or obligations in This Agreement to a third party, then, unless stated otherwise in the Notice of Assignment that We will issue to You, from that point onwards:
  - a. All references made to Us in This Agreement, after such assignment or transfer, will be construed as a reference to the assigned or transferred party; and
  - b. The assigned or transferred party will be entitled to enforce all rights and may fulfil certain obligations that We have under This Agreement, including collection of monies due to Us or payable to Us in the future.

**22 RELEASE FROM OUR OBLIGATIONS**

- i. You understand and agree that We will be released from any further obligation or liability to You if We are unable to provide You Our Service for reasons of:
  - a. Suspension or cancellation of requisite license, if any, from the relevant authority to provide Our Service in Australia.
  - b. Suspension or termination of Our wholesale supplier agreement(s) with the MNO, thereby denying Us the ability provide Our Service to You; or
  - c. If We become insolvent and are unable to continue Our operations anymore.
- ii. In any event, You consent to Us transferring Your personal information and Your Service to another service provider at their Terms, Your consent for which is deemed, to avoid or minimise any interruption to Your Service. If this occurs, You agree that:
  - a. Any outstanding payments to Us are still due and payable to Us; and
  - b. Any future payments must be paid directly to the new service provider in accordance with the Terms of their agreement with You.

**23 SEVERABILITY**

- i. If any term or other provision of This Agreement is determined by a court of competent jurisdiction to be invalid, illegal or incapable of being enforced by any rule of Law or regulations, all other Terms, provisions and conditions of This Agreement shall nevertheless remain in full force and effect; and

- ii. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the parties hereto shall negotiate in good faith to modify This Agreement so as to give effect to Our original intent as closely as possible to the fullest extent permitted by applicable Law or regulations and in an acceptable manner.

**24 THIRD PARTY RIGHTS**

- i. Except for the parties mentioned in This Agreement as “Us” and “You”, no person who is not a party to This Agreement has any right to enforce any terms of agreement.

**25 LEGAL JURISDICTION**

- i. These Terms are governed by the laws of the State of Victoria, Australia. You agree to submit to the non-exclusive jurisdiction of the courts of that State.