

The terms set out in these Services Terms apply to the provision of Mobile Services in addition to the General Terms and Conditions (available at [www.truedatavoice.com.au](http://www.truedatavoice.com.au) or in hard copy on request from TDV). Unless otherwise specified, any capitalised terms not defined in these Services Terms have the meaning given to them in the General Terms and Conditions.

## 1. Supply of Services

- 1.1 The Nominated Numbers specified in the Transfer Form will be transferred from Customer's existing Provider to TDV in accordance with a migration plan designated by TDV. Customer will provide TDV with all such assistance and information as TDV may reasonably require to complete the transfer of the Nominated Numbers in accordance with that plan.
- 1.2 Except by agreement or as otherwise provided for in these Service Terms, during the Period TDV is appointed as the sole provider of Mobile Services to Customer and has the right to supply all calls (including local, national long distance, international, mobile to mobile, and inbound calls), made using the Nominated Numbers.
- 1.3 Subject to its right to cancel the Mobile Services under the General Terms, Customer is not entitled to cancel the Mobile Services or to remove any Nominated Numbers from the scope of the Mobile Services during a Period for the purpose of replacing TDV as the service provider for those Mobile Services or Nominated Numbers with an alternative Provider.
- 1.4 The Mobile Services may include any data services using the Nominated Numbers.
- 1.5 No Service Level Guarantees apply to the Mobile Services.

## 2. Customer's Obligations

- 2.1 Customer must not:
  - (a) wholesale or otherwise re-sell the Mobile Services;
  - (b) use the Mobile Services except with a Device on the list of devices published by TDV's nominated Provider as approved standard mobile devices as amended from time to time by that Provider in its absolute discretion or any other equipment that complies with all relevant standards and approvals;
  - (c) disclose to any person any security numbers provided by TDV (including Customer's enquiry numbers, barring numbers or personal identification numbers);
  - (d) place, attempt to place or accept a reverse charge call using the Mobile Service;
  - (e) transfer, sell, hire or give away any SIM or any of Customer's rights in any SIM;
  - (f) make or receive calls or send or receive content on TDV's nominated Provider's Mobile Network other than for:
    - (i) its own business use; or
    - (ii) personal use by its End Users; or
  - (g) use the Mobile Services (including any SIM) in connection with a device that switches or reroutes calls to or from the TDV's nominated Provider's Mobile Network.
- 2.2 Customer must:
  - (a) provide complete and accurate details of the Nominated Numbers. TDV will have no responsibility

or liability for any error in the transfer of a Nominated Number or supply of the Mobile Services where that error occurs as a result of a failure by Customer to provide complete and accurate details of the Nominated Numbers;

- (b) keep all SIMs safe and in good condition;
- (c) return all SIMs to TDV immediately on request;
- (d) notify TDV immediately of any loss of, or damage to, any SIM in accordance with the procedure advised to Customer from time to time; and
- (e) at the request of TDV, do everything necessary to help any Provider provide the Mobile Services.

## 3. Charges

- 3.1 The TDV Agreed Rates may distinguish between different products used to provide the Mobile Services and different uses of the Mobile Services.
- 3.2 The TDV Agreed Rates for post-paid Mobile Services are based on the Estimated Monthly Spend specified in the accepted Application Form. TDV may by notice to Customer alter the TDV Agreed Rates for post-paid Mobile Services if the amount of the monthly post-paid call Charges (exclusive of GST) invoiced to Customer over any continuous 3 month period is on average less than 85% of the Estimated Monthly Spend.
- 3.3 Other Charges may apply where Customer does not use TDV's nominated Provider's Mobile Network (e.g. when Roaming). Customer acknowledges and agrees that the rates specified by the applicable Provider will be the basis for calculating those Charges.
- 3.4 Customer acknowledges that if TDV novates its rights and obligations under the Agreement to TBG in accordance with **clause 26.1** of the General Terms, the Charges will cease to apply and the charges applicable to the provision of Mobile Service by TBG may be altered to the nearest applicable Provider rate plan.
- 3.5 If Customer or any of its End Users uses a Roaming service overseas in connection with a Nominated Number, Customer:
  - (a) acknowledges that Roaming rates:
    - (i) are governed by the Provider used by Customer or its End Users at the time; and
    - (ii) should be checked on the Website prior to departure from Australia but may alter without notice;
  - (b) agrees to pay all call charges in connection with the provision and use of the Roaming services, including local taxes and surcharges; and
  - (c) acknowledges that TDV may require Customer to pay a security deposit prior to making Roaming facilities available. Any such deposit will be refunded to Customer upon the earlier of:
    - (i) TDV being satisfied, in its sole discretion, that Customer does not pose a Credit Risk; and
    - (ii) 30 days from the date of termination or cancellation of the Mobile Services, subject to all outstanding Charges being paid by Customer.

## 4. Matters Relating to Services

- 4.1 Customer acknowledges that:

- (a) the Mobile Services may be unavailable in some areas, or in some buildings, or at certain times as a result of a number of factors beyond TDV's control, including capacity constraints, electromagnetic interference, adverse weather conditions, equipment failure, Customer's location or during scheduled or unscheduled maintenance;
  - (b) Roaming relies on the Networks of Providers or other carriers over which TDV has no control. TDV cannot guarantee the quality and reliability of the Mobile Services when Customer is Roaming;
  - (c) subject to **clauses 4.1(b)** and **4.2**, the Mobile Services can only be used in areas where TDV's nominated Provider's Mobile Network is present or Roaming is available; and
  - (d) TDV is not liable to Customer or any person claiming through Customer for any breach or failure caused by any event beyond TDV's reasonable control, including any technical problems or limitations relating to a Provider's Network or the Website, delay in Connecting, Disconnecting or Reconnecting, wrongful suspension or Disconnection of a Nominated Number, delay in correcting any fault or Customer's incorrect operation of any Mobile Service.
- 4.2 If TDV's nominated Provider's Mobile Network is not present or Roaming is not available in a particular area and Customer advises TDV that Customer requires Mobile Services in that area:
- (a) TDV may, in its discretion, elect not to provide Mobile Services to Customer in that area;
  - (b) if TDV elects to provide Mobile Services to Customer in that area, TDV will do so using the Mobile Network of an alternative Provider nominated in writing by Customer or, failing such nomination, designated by TDV; and
  - (c) Customer acknowledges and agrees that the rates specified by that Provider will be the basis for calculating the Charges (including the call charges), for Mobile Services provided in that area.
- 4.3 Without limiting its rights to suspend Services under the General Terms, TDV is entitled, without incurring any liability to Customer, to suspend any Mobile Services or Disconnect any Nominated Number immediately where:
- (a) any of Customer's equipment is causing interference with any Mobile Network;
  - (b) TDV reasonably believes Customer is jeopardising the operation or quality of a Mobile Network or the services a Provider supplies to its customers;
  - (c) Customer engages in the conduct prohibited under clause **2.1(a), (f)** or **(g)**; or
  - (d) TDV suspects that the SIM relating to the Nominated Number is being used to transform fixed originating calls to mobile originating calls,
- and TDV will Reconnect the Nominated Number or end the suspension as soon as reasonably practicable after the event or circumstance requiring the suspension or Disconnection has ceased.
- 4.4 If notified by Customer or someone acting on its behalf that a SIM has been lost or stolen, TDV will:
- (a) promptly suspend the relevant Nominated Number; and
  - (b) end the suspension as soon as reasonably practicable after TDV has issued a replacement SIM to Customer.
- 5. Mobile Number Porting**
- 5.1 Customer acknowledges and agrees that:
- (a) if an existing MSN is Ported, only the MSN switches to TDV. No existing value added services with Customer's current mobile service Provider will be transferred, which may result in the loss of (or the loss of access to) these services from that Provider, including voice mail, SMS, paging or facsimile services. However, such services may instead be provided by TDV upon application and payment of any relevant fees;
  - (b) Customer may have outstanding contractual obligations and costs to its current mobile service Provider, including an ongoing contract with that Provider which requires the payment of cancellation and or termination fees (including any early termination fees) to that Provider if an existing MSN is Ported to TDV;
  - (c) Customer's current mobile service Provider may or may not disconnect its existing mobile service and value added services, and Porting an existing MSN to TDV may result in finalisation of Customer's existing account for that service; and
  - (d) if Customer currently has a prepaid handset, it may need to get any SIM security or network locking removed by its current mobile service Provider or have the handset reprogrammed prior to Porting, or get a new handset.
- 5.2 Customer can only withdraw its authority to Port a MSN to TDV prior to the Port cutover notification being received by TDV from Customer's current mobile service Provider.
- 5.3 TDV does not warrant that it can Port an existing MSN from Customer's current mobile service Provider. That Provider may reject the request to Port if the information Customer provides is incorrect or does not match the data held by the Provider. In this case, TDV reserves the right to correct the information and resubmit the request to Port or dispute the rejection by Customer's current mobile service Provider. Additionally, in accordance with the MNP Code, a request to Port may be rejected if:
- (a) the request is for a non-Portable MSN, e.g. a cancelled MSN;
  - (b) the MNP Code requires the request to be rejected; or
  - (c) TDV cannot otherwise provide Porting for that MSN in the circumstances.
- 5.4 If Customer's MSN cannot be Ported then it may accept a new MSN from TDV on such terms and conditions as imposed by TDV.
- 5.5 TDV does not warrant that an existing MSN will be Ported to TDV within any specified timeframe.
- 5.6 Acting in accordance with the MNP Code and any other bilateral arrangements, in the event of a Port to TDV, or Port Withdrawal or Port Reversal to Customer's previous mobile service Provider, TDV is not responsible for any period of outage of the Mobile Services or any related or ancillary services.

- 5.7 TDV reserves the right to charge Customer to Port a MSN to or from TDV.
- 5.8 Customer expressly authorises TDV to provide information regarding its MSNs, TDV and the network type to be disclosed to other Providers to enable the Porting of Customer's MSN's to or from TDV, to allow call routing, for customer network fault management, for preventing of fraud, and for routing of SMS messages to Customer's MSNs after Porting activity.

## 6. Devices and SIMs

- 6.1 If a Purchased Device:
- (a) does not function when it is delivered then, subject to Customer advising TDV of the malfunction as soon as reasonably practicable after becoming aware of the malfunction, TDV will arrange for the malfunctioning Purchased Device to be collected from Customer's premises and replaced at no cost to Customer (other than TDV's handling fee);
  - (b) is subject to Early Life Failure then, subject to Customer advising the TDV Customer Care Representative of the Early Life Failure within the Early Life Failure Period, TDV will arrange for the malfunctioning Purchased Device to be collected from Customer's premises and replaced at no cost to Customer (other than TDV's standard handling fee);
  - (c) ceases to function at any other time during the manufacturer's warranty period for that Purchased Device then Customer must return the malfunctioning Purchased Device to TDV (at Customer's cost) and TDV will arrange for that Device to be repaired or replaced in accordance with the terms of the manufacturer's warranty and for the repaired or replacement Device to be delivered to Customer (at Customer's cost). Customer will be liable to pay TDV's standard Charge for delivery of Devices under this clause; or
  - (d) ceases to function at any time:
    - (i) after the expiry of the manufacturer's warranty period for that Purchased Device; or
    - (ii) during the manufacturer's warranty period for that Purchased Device but in circumstances where the warranty period has been invalidated or the malfunction is not covered by the terms of the manufacturer's warranty for any reason,
 then Customer must return the malfunctioning Purchased Device to TDV (at Customer's cost) and TDV will obtain a quote for the repair of the malfunctioning Device. If the quoted cost of repair is:
    - (iii) less than or equal to \$175 (excluding GST), TDV will arrange for the malfunctioning Device to be repaired and for the repaired Device to be delivered to Customer; or
    - (iv) more than \$175 (excluding GST), TDV will, subject to receiving approval of the quote in writing from Customer, arrange for the malfunctioning Device to be repaired and for the repaired Device to be delivered to Customer.

If the malfunctioning Purchased Device cannot be repaired or Customer does not approve the quote, TDV will return the malfunctioning Device to Customer (at Customer's cost). Customer will be liable to pay TDV's standard Charge for the delivery of Devices under this clause, in addition to the cost of any authorised repairs or replacement Device.

- 6.2 The following conditions will apply to any SIM:

- (a) title is retained by TDV at all times;
- (b) the SIM is at Customer's risk immediately on delivery, irrespective of when payment is due from Customer. If a SIM is damaged, lost or stolen after delivery Customer will still be liable to pay TDV for it in full; and
- (c) TDV has the right disconnect any Nominated Number on the grounds that it has been inactive for a period of not less than 3 continuous months.

## 7. Logistics Services

- 7.1 The Logistics Services will be available to Customer at the times and in the manner specified by TDV from time to time.
- 7.2 If TDV specifies timeframes for the dispatch and delivery of Purchased Devices and SIMs, TDV will endeavour to ensure that those timeframes are met, but will have no liability to Customer or any person claiming through Customer if dispatch or delivery occurs outside those timeframes.

## 8. Mobile Data Solution

- 8.1 The following terms and conditions apply to Customer's use of the Mobile Data Solution:
- (a) the Mobile Data Solution may only be accessed with Mobile Data Solution Compatible Devices;
  - (b) all conditions imposed by the content provider must be complied with when accessing content using the Mobile Data Solution;
  - (c) Customer is responsible for all equipment and software necessary to use the Mobile Data Solution as well as for the security and integrity of any information Customer transmits or receives using the Mobile Data Solution;
  - (d) Customer uses the Mobile Data Solution accepting full risk and responsibility in doing so;
  - (e) Customer acknowledges that TDV and its nominated Provider does not check and is not obligated to monitor the content of information or material available from the Mobile Data Solution or the internet and that TDV and its nominated Provider is not liable for loss or damage suffered by Customer or any other person as a result of using information or material obtained using the Mobile Data Solution on the internet, including, but not limited to, loss or damage caused by a virus, worm, trojan horse, zombie, keylogger or other form of malicious code; and
  - (f) Customer will not use the Mobile Data Solution for any activities which breach any laws, standards or codes or infringe a third party's rights, or breach any statements, content requirements or codes promulgated by any relevant authority including activities which will require TDV to take remedial action under any applicable industry code or in a way

which interferes with other users or defames, harasses, menaces, restricts or inhibits any other user from using or enjoying the Mobile Data Solution or the internet or which is indecent, obscene or otherwise offensive.

## 8.2 Customer acknowledges that:

- (a) the Mobile Data Solution coverage area may be smaller than the coverage area for other digital mobile services;
- (b) Customer's ability to access, use and download information on the internet or elsewhere will depend on the features and functionality of the Mobile Data Solution Compatible Device being used to do so and the nature and quality of the information being accessed and TDV does not represent, warrant or guarantee the extent to which a Mobile Data Solution Compatible Device will be able to access, use and download information on the internet or elsewhere; and
- (c) the Mobile Data Solution may be subject to congestion, delays or loss of transmitted data.

## 9. Early Termination and Cancellation

### 9.1 The Charges payable for early termination or cancellation of the Mobile Services pursuant to **clause 19.1** of the General Terms are:

- (a) if the Mobile Services are terminated or cancelled in respect of a Nominated Number other than in accordance with **clauses 18.2** or **18.5** of the General Terms prior to the expiry of the current Period for that Nominated Number, an amount equal to three (3) times the monthly Charges (exclusive of GST) payable in respect of that Nominated Number;
- (b) if the Mobile Services are:
  - (i) terminated by TDV in accordance with **clause 18.4** of the General Terms and the date of termination is prior to the Service Start Date for those Mobile Services; or
  - (ii) cancelled by Customer in accordance with **clauses 3.6** or **6.7** of the General Terms, an amount equal to three (3) times the monthly Charges (exclusive of GST) payable in respect of each Service Number that was to be transferred to TDV pursuant to the accepted Application Form or MAC Request.

### 9.2 For the purpose of **clause 9.1**, the date on which Customer commences removing any Nominated Numbers from the scope of the Mobile Services in breach of **clause 1.3** will be deemed to be the date of Customer's notice of cancellation.

### 9.3 The Charges payable pursuant to **clause 19.5(b)** of the General Terms in respect of any Purchased Device are an amount equal to the difference between:

- (a) the Charges invoiced to or, if not yet invoiced by TDV, for which Customer is otherwise liable to pay in respect of the Purchased Device; and
- (b) the amounts (if any), paid by Customer in respect of the Purchased Device.

## 10. Definitions

### 10.1 In these Service Terms:

**Connection** means connection of a Nominated Number to a Network enabling that Nominated Number to use the Mobile Services.

**Disconnection** means the disconnection of a Connection.

**Early Life Failure** means a Purchased Device ceases to function within the Early Life Failure Period (other than as a result of any damage caused by Customer, an End User or any other third party).

**Early Life Failure Period** means the period specified by the manufacturer of the Purchased Device.

**End User** means Customer's end users of the Mobile Services and Nominated Numbers.

**Estimated Monthly Spend** means, where Customer is purchasing post-paid Mobile Services, the estimated total monthly expenditure on post-paid call charges (exclusive of GST) for Mobile Services specified by Customer in the Application Form.

**Logistics Services** means the logistics services TDV provides to Customer in connection with the supply and replacement of Devices and SIMs.

**Mobile Data Solution** means each mobile data solution offered by TDV from time to time.

**Mobile Network** means any Network used to supply the Mobile Services.

**Roaming** means where Customer uses a mobile service on another Provider's Network to make calls or access mobile services either within or outside Australia.

### 10.2 Terms used in these Service Terms that are defined in the MNP Code will have the meaning given to them in the MNP Code.